UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICANS FOR IMMIGRANT JUSTICE,
3000 Biscayne Blvd. Suite 400
Miami, FL 33137

Plaintiff,

v.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT,
800 North Capitol Street, N.W. Stop 5009
Washington, DC 20536-5009

Defendant.

CIVIL ACTION NO. _____

COMPLAINT FOR INJUNCTIVE RELIEF

1. This is an action under the Freedom of Information Act, 5 U.S.C. § 552 et seq., ("FOIA"), for injunctive and other relief to compel the disclosure and release of documents to Plaintiff, Americans for Immigrant Justice (formerly known as the Florida Immigrant Advocacy Center). The documents in question relate to the Government's decision to arrest and detain Haitian immigrants and to resume deportations to that country even though that country remains unsafe and unstable following a major natural disaster.

JURISDICTION AND VENUE

2. The Court has subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. §§ 552(a)(4)(B) & (a)(6)(E)(iii). Venue is appropriate in the District of Columbia pursuant to 5 U.S.C. § 552(a)(4)(B).

PARTIES

3. Plaintiff AMERICANS FOR IMMIGRANT JUSTICE ("AI Justice") (formerly known as the Florida Immigrant Advocacy Center) is one of the nation's largest non-profit immigration law firms and represents vulnerable immigrants at no charge. Dedicated to protecting and promoting the basic human rights of immigrants, AI Justice influences national policy; successfully litigates or otherwise challenges patterns of abuse; and educates the public about the impact immigration laws and directives have on our communities. AI Justice is based in Miami.

4. Defendant U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT ("ICE") is a department of the Executive Branch of the United States Government. ICE is an agency within the meaning of 5 U.S.C. § 552(f)(1).

FACTUAL BACKGROUND

5. On January 12, 2010, a magnitude 7.0 earthquake devastated Haiti. A deadly cholera outbreak followed. Following the earthquake, the U.S. Government suspended all removals (which are more commonly known as deportations) to Haiti. The U.S. Government placed removable Haitian immigrants under supervised release while deportations were suspended.

6. On January 15, 2010, U.S. Department of Homeland Security Secretary Janet Napolitano designated Haiti for Temporary Protected Status (TPS), permitting some Haitian nationals who met certain eligibility criteria to remain in the United States in light of the unsafe conditions in that country.

7. For reasons unknown, however, on or about November 15, 2010, Defendant U.S.

Immigration and Customs Enforcement (ICE) began arresting (or re-detaining) Haitian nationals who were ineligible for TPS and who had been ordered removed but had been released from immigration detention under orders of supervision while deportations were suspended.

8. The U.S. Government did not announce a change in policy or issue any public statement ending the general suspension of or announcing the resumption of deportations to Haiti.

9. On or about January 15, 2011, ICE deported a planeload of 27 Haitian nationals to Haiti, a country that routinely jails deportees on arrival. Ten days later, one of those deportees, Wildrick Guerrier—a lawful permanent resident of the United States who had lived here for 17 years—died after suffering cholera-like symptoms in a Haitian jail cell.

10. Since the U.S. government resumed deportations to Haiti, Haitian nationals have been arrested and re-detained even though they were fully complying with their orders of supervision. Some have been arrested and detained when they reported to ICE for a scheduled appointment. At least one individual was arrested and detained in the middle of the night while at home with his family.

11. Some of those slated for deportation are ill, and some have been forcibly transferred without notice to remote detention facilities in Louisiana, far from their families and attorneys. Under pressure of resumed deportations to Haiti, some arrested individuals have threatened or engaged in hunger strikes and/or have threatened or attempted suicide.

REQUEST AND EXHAUSTION OF REMEDIES

12. On December 17, 2010, AI Justice submitted a FOIA request to ICE via fax. (See Exhibit A, attached hereto). The letter requested records pertaining to:

a. Use of force by ICE against detainees, suicide threats/attempts, detainee requests to speak with family and/or attorneys, medical requests, grievances and other complaints at detention facilities where Haitians slated for deportation were summarily re-detained and/or transferred away from families and their attorneys without notice, for purposes of deportation to an unsafe and unstable country (Items 1-4);

b. The adoption, implementation, basis for, and scope of the Government's new policy to resume deportations to Haiti (Items 5-9);

c. The individuals affected by the Government's new policy to resume deportations to Haiti (Items 10-11); and

d. Arrangements by the Government to deport Haitians to Haiti or a third country, including any plans with other U.S. Government agencies or international entities (Items 12-17).

13. After passage of the 20 business-day period for response provided by statute, ICE acknowledged receipt of the request by letter dated January 25, 2011, and advised that "the total estimated search and duplication expenses for processing [the] request will exceed $25.00." (See Exhibit B, attached hereto). ICE provided no estimate of the actual or estimated cost, but asked that AI Justice narrow its request or confirm within 10 business days, in writing, "the amount which you are willing to pay for the processing of your request."

14. On February 2, 2011, AI Justice faxed a response to ICE, advising that the regulation governing fees requires that the agency "notify the requester of the actual or estimated amount of the fees," and asking that the agency state the actual or estimated cost of processing the request. AI Justice also requested a public interest waiver of any fees because AI Justice is a non-profit legal services agency that defends the rights of immigrants and because disclosure would contribute significantly to understanding by the public of the Government's actions. (See Exhibit C, attached hereto).

15. By letter dated February 15, 2011, ICE denied the public interest fee waiver

request without stating any basis for its denial. (See Exhibit D, attached hereto). ICE then advised that the cost incurred so far in processing the request totaled $1,891.00. ICE still did not provide an estimate of the total projected costs. ICE asked that AI Justice confirm within 10 business days in writing its willingness to pay the fees incurred to date, and make an advance payment of $945.00 or narrow its request.

16. On February 24, 2011, AI Justice faxed a letter to ICE appealing the denial of the fee waiver request as arbitrary and capricious, and pointed out the public interest in this information as evidenced by the widespread press coverage of ICE's detention and planned deportation of Haitians. *See, e.g.*, Kirk Semple, *Haitians in U.S. Brace for Deportations to Resume*, N.Y. Times (Dec. 19, 2010); Ruth Messinger, *Chronicle of a Death Foretold*, American Jewish World Service (Feb. 17, 2011). (See Exhibit E, attached hereto).

17. By letter dated March 16, 2011, ICE denied the administrative appeal. (See Exhibit F, attached hereto). ICE conceded that the requested information concerns the operations and activities of the government, but denied the fee waiver, asserting for the first time that the request inadequately explained plaintiff's intended method of dissemination to the public.

18. By letter dated May 11, 2011, Plaintiff requested that ICE reconsider its denial of the fee waiver. (See Exhibit G, attached hereto). In support of its request for reconsideration, Plaintiff submitted the declaration of Susan Barciela, Plaintiff's Policy Director. Ms. Barciela explained that Plaintiff regularly disseminates information to the public for the purpose of informing the public about pressing immigration policy matters through a variety of means, including by issuing press releases to state and national media contacts; holding press

conferences; posting on websites, producing published reports; and communicating regularly with the English- and Spanish-language media. Ms. Barciela cited numerous examples of press releases and published articles demonstrating Plaintiff's record of disseminating information to the public. She stated that Plaintiff intends to disseminate the information sought in its December 17, 2010 FOIA letter using these same means.

19. By letter dated June 24, 2011, ICE declined even to consider whether Plaintiff is entitled to a fee waiver, citing 6 C.F.R. § 5.9(a)(2), which states only that an adverse determination by the DHS Associate General Counsel "will be the final action of the Department." (See Exhibit H, attached hereto). ICE stated that its June 24, 2011 letter was "the final action of the Department of Homeland Security considering [Plaintiff's] FOIA/PA request," and that Plaintiff may obtain judicial review of ICE's decision pursuant to 5 U.S.C. § 552(a)(4)(B).

20. Plaintiff has exhausted administrative remedies. 5 U.S.C. § 552(a)(6)(C)(i).

CLAIMS FOR RELIEF

COUNT ONE
Improper Denial of Fee Waiver In Violation of the Freedom of Information Act

21. The Freedom of Information Act ("FOIA") requires agencies to determine within 20 business days of a request for records whether the agency will comply with the request, and immediately notify the requester of the agency's decision, the reasons therefor, and appeal procedures for adverse determinations. 5 U.S.C. § 552(a)(6)(A)(i).

22. As to fees, FOIA requires that each agency promulgate regulations specifying the schedule of fees, and establishing procedures and guidelines for determining when such fees should be waived or reduced. 5 U.S.C. § 552(a)(4)(A)(i).

23. The agency's fees are limited to reasonable standard charges for document search and duplication when records are not requested for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(III).

24. Moreover, documents "shall be furnished without any charge or at a charge reduced below the fees established . . . if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii).

25. Fees may not be charged for the first two hours of search time or 100 pages of duplication. 5 U.S.C. § 552(a)(4)(A)(iv).

26. An agency may not assess search or duplication fees if the agency fails to comply with any statutory time limit, if no unusual or exceptional circumstances (as those terms are defined in the statute) apply to the processing of the request. 5 U.S.C. § 552(a)(4)(A)(viii).

27. In any action by a requester regarding the waiver of fees under FOIA, the court must determine the matter de novo based on the record before the agency. 5 U.S.C. § 552(a)(4)(A)(vii).

28. A requester is deemed to have exhausted administrative remedies if the agency fails to comply with the applicable time limit provisions. 5 U.S.C. § 552(a)(6)(C)(i).

29. The district court of the District of Columbia has jurisdiction to enjoin an agency from withholding agency records and to order the production of agency records improperly withheld, after determining the matter de novo. 5 U.S.C. § 552(a)(4)(B).

30. Plaintiff properly submitted a request to Defendant for records that are public

records under the FOIA.

31. Plaintiff is not seeking these records for commercial purposes, but instead, as it has a history of doing, Plaintiff seeks to significantly contribute to public discussion of the operations and activities of the government on an issue of substantial, current public concern.

32. Defendant's failure to comply with the time limitations under the FOIA precluded the agency from assessing fees. 5 U.S.C. § 552(a)(4)(A)(vii).

33. In the alternative, Plaintiff established that any applicable fees should be waived in the public interest. 5 U.S.C. § 552(a)(4)(A)(iii); 6 C.F.R. § 5.11.

34. Defendant's assessment of fees was unlawful.

35. Defendant's denial of the fee waiver was arbitrary and capricious and contrary to both the FOIA statute and governing regulations.

COUNT TWO
Failure to Disclose and Release Records In Violation of the Freedom of Information Act

36. Plaintiff properly submitted a request to Defendant for records that are public records under the FOIA and established that any applicable fees should be waived. Pursuant to 5 U.S.C. § 552(a)(3), Plaintiff has a right of access to the information and documents requested in its FOIA Request.

37. Defendant cited no exemption or other legitimate basis for refusing to disclose this information and these documents to Plaintiff. Defendant has unlawfully withheld the records requested by Plaintiff. Defendant's refusal to disclose and release records therefore violates the FOIA and governing regulations.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

A. Provide for expeditious proceedings in this matter in accordance with 5 U.S.C. § 552(a)(4)(D);

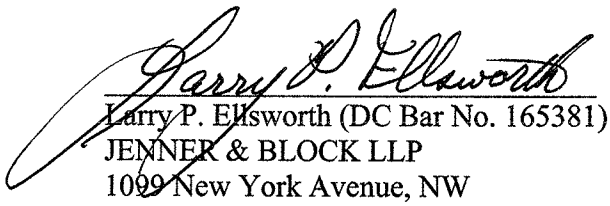
B. Order Defendant to waive assessment of fees with regard to Plaintiff's December 17, 2010 FOIA request;

C. Order Defendant to disclose and release the requested records in their entirety without further delay;

D. Award Plaintiff reasonable attorneys' fees and other litigation costs in accordance with 5 U.S.C. § 552(a)(4)(E); and

E. Grant Plaintiff any other relief the Court deems just and proper.

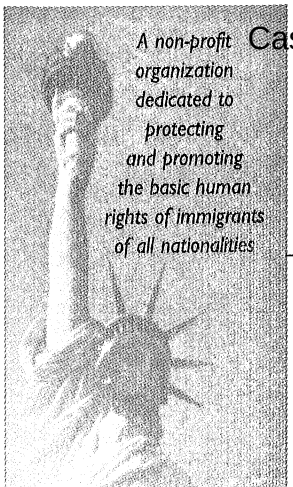
Respectfully submitted,



Larry P. Ellsworth (DC Bar No. 165381)
JENNER & BLOCK LLP
1099 New York Avenue, NW
Washington, DC 20001
Tel: (202) 639-6000
Fax: (202) 661-4956
Email: lellsworth@jenner.com

Attorney for Plaintiff

Dated: January 10, 2012



A non-profit organization dedicated to protecting and promoting the basic human rights of immigrants of all nationalities

FIAC
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FLORIDA IMMIGRANT ADVOCACY CENTER, INC.
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December 17, 2010
Via Fax (202) 732-0310

FOIA Office
U.S. Immigration and Customs Enforcement
800 North Capitol St., NW
5th Floor, Suite 585
Washington, DC 20536

RE: Resumed Deportations to Haiti

Dear FOIA Officer:

This is a request for the following information pursuant to 5 U.S.C. § 552 *et seq.*:

1. Any and all use of force reports, and any other records and information related to the use of force, including but not limited to audio and video recordings, involving any individual detained by or for U.S. Immigration and Customs Enforcement at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana), and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present;

2. Any and all incident reports, and any other records and information related to any incident involving any individual detained by or for U.S. Immigration and Customs Enforcement at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana), and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present;

3. Any and all information pertaining to any threat of suicide, special housing for suicide watch, logs for suicide watch, suicide attempts and suicides at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana), and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present;

4. Any and all sick call requests, grievances, petitions, complaints, requests to contact family members, requests to contact attorneys (and responses to any of the foregoing) made by any detainee at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana), and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present;

5. Any and all documents, communications, emails, reports and other information reflecting or describing the new policy decision to resume deportations to Haiti ("new policy") either directly or through a third country, from January 2010 to the present;

6. Any and all communications, recommendations, memoranda, analyses, evaluations, directions, instructions, and other information prepared, relayed or communicated by or to ICE Field Offices regarding the new policy, both prior to and subsequent to its adoption;

7. All documents and any other information relied on or cited as the basis(es) for the new policy decision to resume deportations to Haiti, either directly or through a third country;

8. All documents reflecting "the profile" or any other criteria, description, or classification of those ICE or any other entity has identified as amenable to deportation under the new policy;

9. All documents relied on by any agency or entity to determine that any individual "fits the profile" of those ICE or any other entity has identified as amenable to deportation under the new policy;

10. A complete list of the names, A Numbers, countries of birth, dates of birth, nationalities, states of residency, length of time in the United States, prior immigration status, and any convictions (include state of conviction, statute of conviction, date of conviction, judgment, sentence imposed and sentence served) of those ICE or any other entity has identified as amenable to deportation under the new policy;

11. Any and all information regarding the apprehension of individuals who were on orders of supervision or any other form of release from November 15, 2010 to the present for the purpose of deporting those individuals pursuant to the new policy, including but not limited to the date, location and manner of apprehension, and any and all documentation reflecting each individual's compliance with, or failure to comply with, any order of supervision or other form of conditional release;

12. Any and all documents, plans, agreements and communications regarding Justice Prisoner & Alien Transportation System (JPAT) flights or any other logistical arrangements to repatriate individuals to Haiti either directly or through a third country under the new policy;

13. Any and all documents or other records reflecting any agreements, understandings, arrangements, plans, programs and communications with the Government of Haiti regarding the new policy, including but not limited to all information on any financial arrangements related in any way to the new policy;

14. Any and all documents, communications and other records reflecting the Government of Haiti's consent to accept deportees under the new policy;

15. Any and all documents, communications and other records reflecting any agreements, understandings, arrangements, plans, programs or other communications with any third country regarding the new policy;

16. Any and all documents, communications and other records reflecting any agreements, understandings, arrangements, plans, programs or other communications with any other United States agency regarding the new policy; and

17. Any and all documents, communications and other records reflecting any agreements, understandings, arrangements, plans, or programs with any other entity, including but not limited to the International Office for Migration (IOM), regarding the new policy.

Thank you in advance for your assistance with this matter. Please feel free to contact me if you require any additional information.

Sincerely,

Cheryl Little
Executive Director

FAX(TX)

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December 17, 2010
Via Fax (202) 732-0310

FOIA Office
U.S. Immigration and Customs Enforcement
800 North Capitol St., NW
5th Floor, Suite 585
Washington, DC 20536

RE: Resumed Deportations to Haiti

Dear FOIA Officer:

This is a request for the following information pursuant to 5 U.S.C. § 552 *et seq.*:

1. Any and all use of force reports, and any other records and information related to the use of force, including but not limited to audio and video recordings, involving any individual detained by or for U.S. Immigration and Customs Enforcement at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana), and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present;

2. Any and all incident reports, and any other records and information related to any incident involving any individual detained by or for U.S. Immigration and Customs Enforcement at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana), and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present;

U.S. Department of Homeland Security
800 N. Capitol St. NW, STOP 5009
Washington, DC 20536-5009

U.S. Immigration and Customs Enforcement

January 25, 2011

CHERYL LITTLE
FIAC
3000 BISCAYNE BLVD. SUITE 400
MIAMI, FL 33137

RE: **ICE FOIA Case Number 2011FOIA4250**

Dear Ms. Little:

This is regarding the processing of your December 17, 2010 Freedom of Information Act (FOIA) seeking copies of records pertaining to the following 17 categories of information:

1. Any and all use of force reports, and any other records and information related to the use of force, including but not limited to audio and video recordings, involving any individual detained by or for U.S. Immigration and Customs Enforcement at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana) and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present.
2. Any and all incident reports, and any other records and information related to any incident involving any individual detained by or for U.S. Immigration and Customs Enforcement at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana) and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present.
3. Any and all information pertaining to any threat of suicide, special housing for suicide watch, logs for suicide watch, suicide attempts and suicides at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana) and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present.
4. Any and all sick call requests, grievances, petitions, complaints, requests to contact family members, requests to contact attorneys (and responses to any of the foregoing) made by any detainee at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana

Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana) and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present.

5. Any and all documents, communications, emails, reports and other information reflecting or describing the new policy decision to resume deportations to Haiti ("new policy") either directly or through a third country, from January 2010 to the present;
6. Any and all communications, recommendations, memoranda, analyses, evaluations, directions, instructions, and other information prepared, relayed or communicated by or to ICE Field Offices regarding the new policy, both prior to and subsequent to its adoptions;
7. All documents and any other information relied on or cited as the basis(es) for the new policy decision to resume deportations to Haiti, either directly or through a third country;
8. All documents reflecting "the profile" or any other criteria, description, or classification of those ICE or any other entity has identified as amendable to deportation under the new policy;
9. All documents relied on by any agency or entity to determine that any individual "fits the profile" of those ICE or any other entity has identified as amenable to deportation under the new policy;
10. A complete list of the names, A Numbers, countries of birth, dates of birth, nationalities, states of residency, length of time in the United States, prior immigration status, and any convictions (include state of conviction, statute of conviction, date of conviction, judgment, sentence imposed and sentence served) of those ICE or any other entity has identified as amenable to deportation under the new policy.
11. Any and all information regarding the apprehension of individuals who were on orders of supervision or any other form of release from November 15, 2010 to the present for the purpose of deporting those individuals pursuant to the new policy, including but not limited to the date, location and manner of apprehension, and any and all documentation reflecting each individual's compliance with, or failure to comply with, any order of supervision or other form of conditional release;
12. Any and all documents, plans, agreements and communications regarding Justice Prisoner & Alien Transportation System (JPAT) flights or any other logistical arrangements to repatriate individuals to Haiti either directly or through a third country under the new policy;
13. Any and all documents or other records reflecting any agreements, understandings, arrangements, plans, programs and communications with the Government of Haiti regarding the new policy, including but not limited to all information on any financial arrangements related in any way to the new policy;
14. Any and all documents, communications and other records reflecting the Government of Haiti's consent to accept deportees under the new policy;
15. Any and all documents, communications and other records reflecting any agreements, understandings, arrangements, plans, programs or other communications with any other Unites States agency regarding the new policy;
16. Any and all documents, communications and other records reflecting any agreements, understandings, arrangements, plans, programs or other communications with any other United States agency regarding the new policy; and
17. Any and all documents, communications and other records reflecting any agreements, understandings, arrangements, plans, or programs with any other entity, including but not limited to the International Office for Migration (IOM), regarding the new policy.

The FOIA provides three levels of fees that may be assessed to process a FOIA request according to categories of FOIA requesters. *See* 5 U.S.C. § 552(a)(4)(A)(ii)(I),(II),(III) (2000).

Our acknowledgement of your request notified you that you were placed in the "all other" requester category. Pursuant to the DHS implementing regulations, 6 C.F.R. § 5.11, "all other" or non-commercial requesters are responsible to pay 10-cents a page for duplication, although the first 100 pages are free, as are the first two hours of search time, after which you will pay the per quarter-hour rate ($4.00, $7.00, $10.25) of the searcher.

In our letter dated December 22, 2010, we notified you that you would be contacted if the total cost for processing you request exceeded $25.00. I am hereby notifying you that the total estimated search and duplication expenses for processing your request will exceed $25.00. Please confirm, in writing, the amount which you are willing to pay for the processing of your request. Please send your written confirmation directly to this office within 10 business days from the date of this letter to the following address:

Freedom of Information Act Office
U.S. Immigration and Customs Enforcement
800 North Capitol Street, NW, STOP 5009
Washington, DC 20536-5009
(202) 732-0310 (fax)

In the alternative, you may narrow the scope of your request to reduce the universe of responsive records. If you wish to narrow the scope of your request, please send an amended request and indicate the processing fee amount you are willing to pay within 10 business days from the date of this letter. You may send your amended request to the address above, by facsimile to (202) 732-0310, or e-mail at ICE-FOIA@dhs.gov.

Pending receipt of your response, we will toll your request under the provisions of the FOIA. If we do not receive confirmation of the amount you are willing to pay, or an amended request from you within 10 business days from the date of this letter, we will assume you are no longer interested in obtained the requested records and will consider your request withdrawn.

If you have any questions, or would like to discuss this matter, please feel free to contact our office at (202) 732-0300. Please refer to **2011FOIA4250** in all future correspondence.

Sincerely,

FOR

Catrina M. Pavlik-Keenan
FOIA Officer

Enclosures: December 17, 2010 FOIA Request
December 22, 2010 Acknowledgment Letter

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December 17, 2010
Via Fax (202) 732-0310

FOIA Office
U.S. Immigration and Customs Enforcement
800 North Capitol St., NW
5th Floor, Suite 585
Washington, DC 20536

RE: Resumed Deportations to Haiti

Dear FOIA Officer:

This is a request for the following information pursuant to 5 U.S.C. § 552 *et seq.*:

1. Any and all use of force reports, and any other records and information related to the use of force, including but not limited to audio and video recordings, involving any individual detained by or for U.S. Immigration and Customs Enforcement at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana), and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present;

2. Any and all incident reports, and any other records and information related to any incident involving any individual detained by or for U.S. Immigration and Customs Enforcement at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana), and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present;

3. Any and all information pertaining to any threat of suicide, special housing for suicide watch, logs for suicide watch, suicide attempts and suicides at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana), and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present;

4. Any and all sick call requests, grievances, petitions, complaints, requests to contact family members, requests to contact attorneys (and responses to any of the foregoing) made by any detainee at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana), and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present;

5. Any and all documents, communications, emails, reports and other information reflecting or describing the new policy decision to resume deportations to Haiti ("new policy") either directly or through a third country, from January 2010 to the present;

6. Any and all communications, recommendations, memoranda, analyses, evaluations, directions, instructions, and other information prepared, relayed or communicated by or to ICE Field Offices regarding the new policy, both prior to and subsequent to its adoption;

7. All documents and any other information relied on or cited as the basis(es) for the new policy decision to resume deportations to Haiti, either directly or through a third country;

8. All documents reflecting "the profile" or any other criteria, description, or classification of those ICE or any other entity has identified as amenable to deportation under the new policy;

9. All documents relied on by any agency or entity to determine that any individual "fits the profile" of those ICE or any other entity has identified as amenable to deportation under the new policy;

10. A complete list of the names, A Numbers, countries of birth, dates of birth, nationalities, states of residency, length of time in the United States, prior immigration status, and any convictions (include state of conviction, statute of conviction, date of conviction, judgment, sentence imposed and sentence served) of those ICE or any other entity has identified as amenable to deportation under the new policy;

11. Any and all information regarding the apprehension of individuals who were on orders of supervision or any other form of release from November 15, 2010 to the present for the purpose of deporting those individuals pursuant to the new policy, including but not limited to the date, location and manner of apprehension, and any and all documentation reflecting each individual's compliance with, or failure to comply with, any order of supervision or other form of conditional release;

12. Any and all documents, plans, agreements and communications regarding Justice Prisoner & Alien Transportation System (JPAT) flights or any other logistical arrangements to repatriate individuals to Haiti either directly or through a third country under the new policy;

13. Any and all documents or other records reflecting any agreements, understandings, arrangements, plans, programs and communications with the Government of Haiti regarding the new policy, including but not limited to all information on any financial arrangements related in any way to the new policy;

14. Any and all documents, communications and other records reflecting the Government of Haiti's consent to accept deportees under the new policy;

15. Any and all documents, communications and other records reflecting any agreements, understandings, arrangements, plans, programs or other communications with any third country regarding the new policy;

16. Any and all documents, communications and other records reflecting any agreements, understandings, arrangements, plans, programs or other communications with any other United States agency regarding the new policy; and

17. Any and all documents, communications and other records reflecting any agreements, understandings, arrangements, plans, or programs with any other entity, including but not limited to the International Office for Migration (IOM), regarding the new policy.

Thank you in advance for your assistance with this matter. Please feel free to contact me if you require any additional information.

Sincerely,

Cheryl Little
Executive Director

U.S. Department of Homeland Security
Washington, DC 20536

U.S. Immigration and Customs Enforcement

December 22, 2010

CHERLY LITTLE
FIAC
3000 BISCAYNE BLVD SUITE 400
MIAMI, FL 33137

Re: 2011FOIA4250

Dear Ms. Little:

This acknowledges receipt of your December 17, 2010, Freedom of Information Act (FOIA) request to the Immigration and Customs Enforcement (ICE), for records regarding resumed deportations to Haiti. Your request was received in this office on December 22, 2010.

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Per Section 5.5(a) of the DHS FOIA regulations, 6 C.F.R. Part 5, the Department processes FOIA requests according to their order of receipt. Although DHS' goal is to respond within 20 business days of receipt of your request, the FOIA does permit a 10-day extension of this time period. As your request seeks numerous documents that will necessitate a thorough and wide-ranging search, DHS will invoke a 10-day extension for your request, as allowed by Title 5 U.S.C. § 552(a)(6)(B). If you care to narrow the scope of your request, please contact our office. We will make every effort to comply with your request in a timely manner; however, there are currently 1933 open requests ahead of yours.

Provisions of the Act allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the DHS Interim FOIA regulations as they apply to non-commercial requesters. As a non-commercial requester you will be charged 10-cents a page for duplication, although the first 100 pages are free, as are the first two hours of search time, after which you will pay the quarter-hour rate ($4.00, $7.00, $10.25) of the searcher. We will construe the submission of your request as an agreement to pay up to $25.00. You will be contacted before any further fees are accrued.

We have queried the appropriate program offices within ICE for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the processors in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

Your request has been assigned reference number **2011FOIA4250**. Please refer to this identifier in any future correspondence. You may contact this office at (202) 732-0300 or 1-866-633-1182.

Sincerely,

FOR

Catrina M. Pavlik-Keenan
FOIA Officer

A non-profit organization dedicated to protecting and promoting the basic human rights of immigrants of all nationalities

FIAC
LAW OFFICES
FLORIDA IMMIGRANT ADVOCACY CENTER, INC.

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February 2, 2011
Via Fax (202) 732-0310

FOIA Office
U.S. Immigration and Customs Enforcement
800 North Capitol St., N.W.
5th Floor, Suite 585
Washington, D.C. 20536

RE: ICE FOIA Case Number 2011FOIA4250

Dear Ms. Pavlik-Keenan:

This is in response to your January 25, 2011 letter, which also enclosed an acknowledgment letter dated December 22, 2010 that was not previously received by our office.

Your January 25, 2011 letter states that "the total estimated search and duplication expenses for processing" our request will exceed $25.00, and asks that we either confirm the amount we are willing to pay or narrow the scope of our request. The letter does not, however, notify us of the actual or estimated amount of the fees.

DHS regulations provide:

> When a component determines or estimates that the fees to be charged under this section will amount to more than $25.00, the component shall notify the requester of the actual or estimated amount of the fees, unless the requester has indicated a willingness to pay fees as high as those anticipated. If only a portion of the fee can be estimated readily, the component shall advise the requester that the estimated fee may be only a portion of the total fee.

6 C.F.R. § 5.11(e) (emphasis added).

As your January 25, 2011 letter does not comport with the requirement that a requester be provided an estimate of the fees, we do not believe the letter is adequate notice under 6 C.F.R. § 5.11(e), and therefore has not tolled the agency's time to process the request. See 6 C.F.R. § 5.11(e) (providing that following notice under this provision, no further work shall be done on a request "until the requester makes a firm commitment to pay the anticipated total fee.").

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Please be advised that we decline to narrow the scope of our request, as all the information requested is vital to the public's understanding the basis for the Government's resumption of deportations to Haiti at a time when deportation places deportees' lives at risk.

We ask that you notify us without further delay of the actual or estimated cost of processing our request. Moreover, we believe the request qualifies for waiver or reduction of any fee, given that: (1) disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the Government's action in resuming deportations to Haiti under unsafe conditions; and (2) disclosure is not in the commercial interest of the requester, a non-profit legal services agency that serves the South Florida immigrant community, including a large Haitian population dramatically affected by the Government's actions. See 6 C.F.R. § 5.11(k).

The Government has provided next to no information to the public about its resumption of deportations to Haiti at a time when that country is still reeling from a devastating earthquake, suffering a cholera outbreak, and in a state of political and civil crisis. Nor has the Government provided information about the effect of its sudden decision on the individuals' affected, many of whom were plucked from their lives and their American families without warning to be sent off to remote jails in Louisiana awaiting an unknown but perilous fate. See 6 C.F.R. § 5.11(k)(2). Release of the requested information will therefore contribute significantly to the public's understanding of the Government's operations and activities. Id. Our expertise in the fields of immigration and removal will allow us to effectively convey this information to the public, as we regularly do in our press releases, press conferences, and other communications to the public about the Government's operations and activities in these areas. Id.

Should your office provide further notification consistent with 6 C.F.R. § 5.11(k) as to the actual or estimated cost for processing our request, we reserve the right to agree to pay the estimated cost or supplement our request for waiver or reduction of the fees. We look forward to your prompt response.

Sincerely,

Cheryl Little, Esq.
Executive Director

TRANSACTION REPORT

FEB/02/2011/WED 06:00 PM

FAX(TX)

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February 2, 2011
Via Fax (202) 732-0310

FOIA Office
U.S. Immigration and Customs Enforcement
800 North Capitol St., N.W.
5th Floor, Suite 585
Washington, D.C. 20536

RE: ICE FOIA Case Number 2011FOIA4250

Dear Ms. Pavlik-Keenan:

This is in response to your January 25, 2011 letter, which also enclosed an acknowledgment letter dated December 22, 2010 that was not previously received by our office.

Your January 25, 2011 letter states that "the total estimated search and duplication expenses for processing" our request will exceed $25.00, and asks that we either confirm the amount we are willing to pay or narrow the scope of our request. The letter does not, however, notify us of the actual or estimated amount of the fees.

DHS regulations provide:

> When a component determines or estimates that the fees to be charged under this section will amount to more than $25.00, the component shall notify the requester of the actual or estimated amount of the fees, unless the requester has indicated a willingness to pay fees as high as those anticipated. If only a portion of the fee can be estimated readily, the component shall advise the requester that the estimated fee may be only a portion of the total fee.

6 C.F.R. § 5.11(e) (emphasis added).

As your January 25, 2011 letter does not comport with the requirement that a requester be provided an estimate of the fees, we do not believe the letter is adequate notice under 6 C.F.R. § 5.11(e), and therefore has not tolled the agency's time to process the request. See 6 C.F.R. § 5.11(e) (providing that following notice under this provision, no further work shall be done on a request "until the

U.S. Department of Homeland Security
800 N. Capitol St. NW, Suite 585
Washington, DC 20536-5009

U.S. Immigration and Customs Enforcement

February 15, 2011

Cheryl Little
FIAC
3000 Biscayne Blvd., Suite 400
Miami, FL 33137

RE: **ICE FOIA Case Number 2011FOIA4250**

Dear Ms. Little:

This is in response to your February 2, 2011 letter regarding the processing of your December 17, 2010 Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE). You have requested copies of records pertaining to the following 17 categories of information:

1. Any and all use of force reports, and any other records and information related to the use of force, including but not limited to audio and video recordings, involving any individual detained by or for U.S. Immigration and Customs Enforcement at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana) and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present.
2. Any and all incident reports, and any other records and information related to any incident involving any individual detained by or for U.S. Immigration and Customs Enforcement at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana) and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present.
3. Any and all information pertaining to any threat of suicide, special housing for suicide watch, logs for suicide watch, suicide attempts and suicides at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana) and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present.
4. Any and all sick call requests, grievances, petitions, complaints, requests to contact family members, requests to contact attorneys (and responses to any of the foregoing) made by any

detainee at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana) and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present.

5. Any and all documents, communications, emails, reports and other information reflecting or describing the new policy decision to resume deportations to Haiti ("new policy") either directly or through a third country, from January 2010 to the present;
6. Any and all communications, recommendations, memoranda, analyses, evaluations, directions, instructions, and other information prepared, relayed or communicated by or to ICE Field Offices regarding the new policy, both prior to and subsequent to its adoptions;
7. All documents and any other information relied on or cited as the basis(es) for the new policy decision to resume deportations to Haiti, either directly or through a third country;
8. All documents reflecting "the profile" or any other criteria, description, or classification of those ICE or any other entity has identified as amendable to deportation under the new policy;
9. All documents relied on by any agency or entity to determine that any individual "fits the profile" of those ICE or any other entity has identified as amenable to deportation under the new policy;
10. A complete list of the names, A Numbers, countries of birth, dates of birth, nationalities, states of residency, length of time in the United States, prior immigration status, and any convictions (include state of conviction, statute of conviction, date of conviction, judgment, sentence imposed and sentence served) of those ICE or any other entity has identified as amenable to deportation under the new policy.
11. Any and all information regarding the apprehension of individuals who were on orders of supervision or any other form of release from November 15, 2010 to the present for the purpose of deporting those individuals pursuant to the new policy, including but not limited to the date, location and manner of apprehension, and any and all documentation reflecting each individual's compliance with, or failure to comply with, any order of supervision or other form of conditional release;
12. Any and all documents, plans, agreements and communications regarding Justice Prisoner & Alien Transportation System (JPAT) flights or any other logistical arrangements to repatriate individuals to Haiti either directly or through a third country under the new policy;
13. Any and all documents or other records reflecting any agreements, understandings, arrangements, plans, programs and communications with the Government of Haiti regarding the new policy, including but not limited to all information on any financial arrangements related in any way to the new policy;
14. Any and all documents, communications and other records reflecting the Government of Haiti's consent to accept deportees under the new policy;
15. Any and all documents, communications and other records reflecting any agreements, understandings, arrangements, plans, programs or other communications with any other Unites States agency regarding the new policy;
16. Any and all documents, communications and other records reflecting any agreements, understandings, arrangements, plans, programs or other communications with any other United States agency regarding the new policy; and

17. Any and all documents, communications and other records reflecting any agreements, understandings, arrangements, plans, or programs with any other entity, including but not limited to the International Office for Migration (IOM), regarding the new policy.

Your February 2, 2011 letter states that FIAC "believe[s] the request qualifies for a waiver or reduction of any fee." Your December 17, 2010 FOIA request was silent on this issue. I have interpreted your February 2, 2011 letter as a request for a waiver of fees.

ICE evaluates fee waiver requests under the legal standard set forth above and the fee waiver policy guidance issued by the Department of Justice on April 2, 1987, as incorporated into the U.S. Department of Homeland Security's FOIA regulations[1]. These regulations set forth six factors to examine in determining whether the applicable legal standard for fee waiver has been met. I have considered the following factors in my evaluation of your request for a fee waiver: (1) whether the subject of the requested records concerns "the operations or activities of the government"; (2) whether the disclosure is "likely to contribute" to an understanding of government operations or activities; (3) whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requestor of a narrow segment of interested persons; (4) whether the contribution to public understanding of government operations or activities will be "significant"; (5) whether the requester has a commercial interest that would be furthered by the requested disclosure; and (6) whether the magnitude of any identified commercial interest to the requestor is sufficiently large in comparison with the public interest in disclosure that disclosure is primarily in the commercial interest of the requestor.

Upon review of your request and a careful consideration of the factors listed above, I have determined to deny your request for a fee waiver. ICE's December 22, 2010 acknowledgement of your request notified you that you were placed in the "all other" requester category. Pursuant to the DHS implementing regulations[2], "all other" or non-commercial requesters are responsible to pay 10-cents a page for duplication, although the first 100 pages are free, as are the first two hours of search time, after which you will pay the per quarter-hour rate ($4.00, $7.00, $10.25) of the searcher.

To date, ICE has completed searches within the ICE Office of Public Affairs and the ICE Office of Policy and Planning for records that would be responsive to your request. Additionally, a partial search of the ICE Office of Enforcement and Removal Operations (ERO) has been completed. To date, ICE has expended a total of 68 hours searching for records that would be responsive to your request; and has identified approximately 2,750 pages of potentially responsive records. Billable search costs at the respective quarter hour rates are as follows:

OPA (completed search)

1.5 Hours Search (managerial)	$10.25 x 6 = $61.50

OPP (completed search)

1 Hours Search (managerial)	$10.25 x 4 = $41.00
1 Hours Search (professional)	$7.00 x 4 = $28.00

[1] 6 CFR § 5.11(k).
[2] 6 C.F.R. § 5.11

ERO HQ (partial search completed)
5 Hours Search (managerial) $10.25 x 20 = $205.00

ERO Miami Field Office (completed search)
10 Hours Search (managerial) $10.25 x 40 = $410.00
4 Hours Search (professional) $7.00 x 16 = $112.00
41 Hours Search (clerical) $4.00 x 164 = $656.00

ERO Houston Field Office (completed search)
3 Hours Search (managerial) $10.25 x 12 = $123.00

ERO Seattle Field Office (completed search)
1 Hours Search (managerial) $10.25 x 4 = $41.00

ERO San Diego Field Office (completed search)
0.5 Hours Search (managerial) $10.25 x 2 = $20.50

The cost incurred so far in processing your request is $1,891.00.[3] Please note that ICE has not yet completed searching for records. Any additional fees will be addressed in a subsequent response. Please confirm, in writing, your willingness to pay the total search and duplication fees incurred to date. Please send your written confirmation directly to this office within 10 business days from the date of this letter.

Since the total fee incurred exceeds $250.00, you must make an advance payment of an amount up to the total amount of the anticipated fee before we can begin to process your request.[4] Please submit a check or money order in the amount of $945.50 made payable to the Treasury of the United States, to this office within 10 business days from the date of this letter. Please mail your payment to this office at the following address:

Freedom of Information Act Office
U.S. Immigration and Customs Enforcement
800 North Capitol Street, NW, Suite 585
Washington, DC 20536-5009

In the alternative, you may narrow the scope of your request to reduce the universe of responsive records. If you wish to narrow the scope of your request, please send an amended request and indicate the processing fee amount you are willing to pay within 10 business days from the date of this letter. You may send your amended request to the address above, by facsimile to (202) 732-0310, or e-mail at ICE-FOIA@dhs.gov.

If we do not receive confirmation of the amount you are willing to pay or an amended request from you within 10 business days from the date of this letter, we will assume you are no longer interested

[3] [22 hours managerial search minus 2 hours free equals 20 hours. 20 hours @ $10.25 per quarter hour equals $820.00] plus [5 hours professional search @ $7.00 per quarter hour equals $140.00] plus [41 hours clerical search @ $4.00 per quarter hour equals $656.00] equals $1,616 search costs. 2,750 potentially responsive pages @ $0.10 per page equals $275.00. $1,616 search costs plus $275.00 duplication costs equals $1,891.00.
[4] *See* 6 C.F.R. § 5.11(i).

in obtained the requested records and will consider your request withdrawn.

As you are entitled to the first one-hundred (100) pages for free, I have enclosed are the first one-hundred pages of documents. These documents were located by ICE ERO and are responsive to items 2 and 4 of your request. After review of these documents, I have determined that three (3) pages will be released in their entirety. Portions of ninety-seven (97) pages have been withheld pursuant to Exemptions 6 and 7(C) of the FOIA as described below.

ICE has applied FOIA Exemptions 6 and 7(C) to protect from disclosure the names and alien numbers of individuals apprehended by ICE as well as the names and identifying information of DHS employees and law enforcement officers.

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right privacy. The types of documents and/or information that we have withheld may consist of social security numbers, home addresses, dates of birth, or various other documents and/or information belonging to a third party that are considered personal. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

FOIA Exemption 7(C) protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes particular note of the strong interests of individuals, whether they are suspects, witnesses, or investigators, in not being unwarrantably associated with alleged criminal activity. That interest extends to persons who are not only the subjects of the investigation, but those who may have their privacy invaded by having their identities and information about them revealed in connection with an investigation. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate. As such, I have determined that the privacy interest in the identities of individuals in the records you have requested clearly outweigh any minimal public interest in disclosure of the information. Please note that any private interest you may have in that information does not factor into this determination.

You have the right to appeal ICE's withholding determination. Should you wish to do so, you must send your appeal and a copy of this letter, within 60 days of the date of this letter to: U.S. Immigration Customs Enforcement, Office of Principal Legal Advisor, U.S. Department of Homeland Security, Freedom of Information Office, 800 North Capitol Street, N.W., Stop 5009 Washington, D.C. 20536-5009, following the procedures outlined in the DHS regulations at 6 C.F.R. § 5.9. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at www.dhs.gov/foia.

The Office of Government Information Services (OGIS) also mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. If you wish to contact OGIS, you may email them at ogis@nara.gov or call 1-877-684-6448.

If you have any questions, or would like to discuss this matter, please feel free to contact our office at (202) 732-0300. Please refer to **2011FOIA4250** in all future correspondence.

Sincerely,

FOR

Catrina M. Pavlik-Keenan
FOIA Officer

Enclosures: December 17, 2010 FOIA Request
December 22, 2010 Acknowledgment Letter
January 25, 2011 ICE Letter to FIAC
February 2, 2011 FIAC Letter to ICE
100 pages of Responsive Documents



A non-profit organization dedicated to protecting and enforcing the basic human rights of immigrants in all communities.

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December 17, 2010
Via Fax (202) 732-0310

FOIA Office
U.S. Immigration and Customs Enforcement
800 North Capitol St., NW
5th Floor, Suite 585
Washington, DC 20536

RE: Resumed Deportations to Haiti

Dear FOIA Officer:

This is a request for the following information pursuant to 5 U.S.C. § 552 *et seq.*:

1. Any and all use of force reports, and any other records and information related to the use of force, including but not limited to audio and video recordings, involving any individual detained by or for U.S. Immigration and Customs Enforcement at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana), and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present;

2. Any and all incident reports, and any other records and information related to any incident involving any individual detained by or for U.S. Immigration and Customs Enforcement at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana), and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present;

3. Any and all information pertaining to any threat of suicide, special housing for suicide watch, logs for suicide watch, suicide attempts and suicides at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana), and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present;

4. Any and all sick call requests, grievances, petitions, complaints, requests to contact family members, requests to contact attorneys (and responses to any of the foregoing) made by any detainee at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana), and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present;

5. Any and all documents, communications, emails, reports and other information reflecting or describing the new policy decision to resume deportations to Haiti ("new policy") either directly or through a third country, from January 2010 to the present;

6. Any and all communications, recommendations, memoranda, analyses, evaluations, directions, instructions, and other information prepared, relayed or communicated by or to ICE Field Offices regarding the new policy, both prior to and subsequent to its adoption;

7. All documents and any other information relied on or cited as the basis(es) for the new policy decision to resume deportations to Haiti, either directly or through a third country;

8. All documents reflecting "the profile" or any other criteria, description, or classification of those ICE or any other entity has identified as amenable to deportation under the new policy;

9. All documents relied on by any agency or entity to determine that any individual "fits the profile" of those ICE or any other entity has identified as amenable to deportation under the new policy;

10. A complete list of the names, A Numbers, countries of birth, dates of birth, nationalities, states of residency, length of time in the United States, prior immigration status, and any convictions (include state of conviction, statute of conviction, date of conviction, judgment, sentence imposed and sentence served) of those ICE or any other entity has identified as amenable to deportation under the new policy;

11. Any and all information regarding the apprehension of individuals who were on orders of supervision or any other form of release from November 15, 2010 to the present for the purpose of deporting those individuals pursuant to the new policy, including but not limited to the date, location and manner of apprehension, and any and all documentation reflecting each individual's compliance with, or failure to comply with, any order of supervision or other form of conditional release;

12. Any and all documents, plans, agreements and communications regarding Justice Prisoner & Alien Transportation System (JPAT) flights or any other logistical arrangements to repatriate individuals to Haiti either directly or through a third country under the new policy;

13. Any and all documents or other records reflecting any agreements, understandings, arrangements, plans, programs and communications with the Government of Haiti regarding the new policy, including but not limited to all information on any financial arrangements related in any way to the new policy;

14. Any and all documents, communications and other records reflecting the Government of Haiti's consent to accept deportees under the new policy;

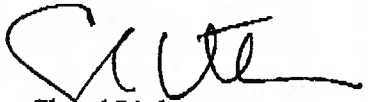
15. Any and all documents, communications and other records reflecting any agreements, understandings, arrangements, plans, programs or other communications with any third country regarding the new policy;

16. Any and all documents, communications and other records reflecting any agreements, understandings, arrangements, plans, programs or other communications with any other United States agency regarding the new policy; and

17. Any and all documents, communications and other records reflecting any agreements, understandings, arrangements, plans, or programs with any other entity, including but not limited to the International Office for Migration (IOM), regarding the new policy.

Thank you in advance for your assistance with this matter. Please feel free to contact me if you require any additional information.

Sincerely,



Cheryl Little
Executive Director

U.S. Department of Homeland Security
Washington, DC 20536

U.S. Immigration and Customs Enforcement

December 22, 2010

CHERLY LITTLE
FIAC
3000 BISCAYNE BLVD SUITE 400
MIAMI, FL 33137

Re: 2011FOIA4250

Dear Ms. Little:

This acknowledges receipt of your December 17, 2010, Freedom of Information Act (FOIA) request to the Immigration and Customs Enforcement (ICE), for records regarding resumed deportations to Haiti. Your request was received in this office on December 22, 2010.

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Per Section 5.5(a) of the DHS FOIA regulations, 6 C.F.R. Part 5, the Department processes FOIA requests according to their order of receipt. Although DHS' goal is to respond within 20 business days of receipt of your request, the FOIA does permit a 10-day extension of this time period. As your request seeks numerous documents that will necessitate a thorough and wide-ranging search, DHS will invoke a 10-day extension for your request, as allowed by Title 5 U.S.C. § 552(a)(6)(B). If you care to narrow the scope of your request, please contact our office. We will make every effort to comply with your request in a timely manner; however, there are currently 1933 open requests ahead of yours.

Provisions of the Act allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the DHS Interim FOIA regulations as they apply to non-commercial requesters. As a non-commercial requester you will be charged 10-cents a page for duplication, although the first 100 pages are free, as are the first two hours of search time, after which you will pay the quarter-hour rate ($4.00, $7.00, $10.25) of the searcher. We will construe the submission of your request as an agreement to pay up to $25.00. You will be contacted before any further fees are accrued.

We have queried the appropriate program offices within ICE for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the processors in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

Your request has been assigned reference number **2011FOIA4250**. Please refer to this identifier in any future correspondence. You may contact this office at (202) 732-0300 or 1-866-633-1182.

Sincerely,

For

Catrina M. Pavlik-Keenan
FOIA Officer

U.S. Department of Homeland Security
800 N. Capitol St. NW, STOP 5009
Washington, DC 20536-5009

U.S. Immigration and Customs Enforcement

January 25, 2011

CHERYL LITTLE
FIAC
3000 BISCAYNE BLVD. SUITE 400
MIAMI, FL 33137

RE: **ICE FOIA Case Number 2011FOIA4250**

Dear Ms. Little:

This is regarding the processing of your December 17, 2010 Freedom of Information Act (FOIA) seeking copies of records pertaining to the following 17 categories of information:

1. Any and all use of force reports, and any other records and information related to the use of force, including but not limited to audio and video recordings, involving any individual detained by or for U.S. Immigration and Customs Enforcement at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana) and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present.
2. Any and all incident reports, and any other records and information related to any incident involving any individual detained by or for U.S. Immigration and Customs Enforcement at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana) and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present.
3. Any and all information pertaining to any threat of suicide, special housing for suicide watch, logs for suicide watch, suicide attempts and suicides at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana) and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present.
4. Any and all sick call requests, grievances, petitions, complaints, requests to contact family members, requests to contact attorneys (and responses to any of the foregoing) made by any detainee at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana

Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana) and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present.

5. Any and all documents, communications, emails, reports and other information reflecting or describing the new policy decision to resume deportations to Haiti ("new policy") either directly or through a third country, from January 2010 to the present;
6. Any and all communications, recommendations, memoranda, analyses, evaluations, directions, instructions, and other information prepared, relayed or communicated by or to ICE Field Offices regarding the new policy, both prior to and subsequent to its adoptions;
7. All documents and any other information relied on or cited as the basis(es) for the new policy decision to resume deportations to Haiti, either directly or through a third country;
8. All documents reflecting "the profile" or any other criteria, description, or classification of those ICE or any other entity has identified as amendable to deportation under the new policy;
9. All documents relied on by any agency or entity to determine that any individual "fits the profile" of those ICE or any other entity has identified as amenable to deportation under the new policy;
10. A complete list of the names, A Numbers, countries of birth, dates of birth, nationalities, states of residency, length of time in the United States, prior immigration status, and any convictions (include state of conviction, statute of conviction, date of conviction, judgment, sentence imposed and sentence served) of those ICE or any other entity has identified as amenable to deportation under the new policy.
11. Any and all information regarding the apprehension of individuals who were on orders of supervision or any other form of release from November 15, 2010 to the present for the purpose of deporting those individuals pursuant to the new policy, including but not limited to the date, location and manner of apprehension, and any and all documentation reflecting each individual's compliance with, or failure to comply with, any order of supervision or other form of conditional release;
12. Any and all documents, plans, agreements and communications regarding Justice Prisoner & Alien Transportation System (JPAT) flights or any other logistical arrangements to repatriate individuals to Haiti either directly or through a third country under the new policy;
13. Any and all documents or other records reflecting any agreements, understandings, arrangements, plans, programs and communications with the Government of Haiti regarding the new policy, including but not limited to all information on any financial arrangements related in any way to the new policy;
14. Any and all documents, communications and other records reflecting the Government of Haiti's consent to accept deportees under the new policy;
15. Any and all documents, communications and other records reflecting any agreements, understandings, arrangements, plans, programs or other communications with any other Unites States agency regarding the new policy;
16. Any and all documents, communications and other records reflecting any agreements, understandings, arrangements, plans, programs or other communications with any other United States agency regarding the new policy; and
17. Any and all documents, communications and other records reflecting any agreements, understandings, arrangements, plans, or programs with any other entity, including but not limited to the International Office for Migration (IOM), regarding the new policy.

The FOIA provides three levels of fees that may be assessed to process a FOIA request according to categories of FOIA requesters. *See* 5 U.S.C. § 552(a)(4)(A)(ii)(I),(II),(III) (2000).

Our acknowledgement of your request notified you that you were placed in the "all other" requester category. Pursuant to the DHS implementing regulations, 6 C.F.R. § 5.11, "all other" or non-commercial requesters are responsible to pay 10-cents a page for duplication, although the first 100 pages are free, as are the first two hours of search time, after which you will pay the per quarter-hour rate ($4.00, $7.00, $10.25) of the searcher.

In our letter dated December 22, 2010, we notified you that you would be contacted if the total cost for processing you request exceeded $25.00. I am hereby notifying you that the total estimated search and duplication expenses for processing your request will exceed $25.00. Please confirm, in writing, the amount which you are willing to pay for the processing of your request. Please send your written confirmation directly to this office within 10 business days from the date of this letter to the following address:

Freedom of Information Act Office
U.S. Immigration and Customs Enforcement
800 North Capitol Street, NW, STOP 5009
Washington, DC 20536-5009
(202) 732-0310 (fax)

In the alternative, you may narrow the scope of your request to reduce the universe of responsive records. If you wish to narrow the scope of your request, please send an amended request and indicate the processing fee amount you are willing to pay within 10 business days from the date of this letter. You may send your amended request to the address above, by facsimile to (202) 732-0310, or e-mail at ICE-FOIA@dhs.gov.

Pending receipt of your response, we will toll your request under the provisions of the FOIA. If we do not receive confirmation of the amount you are willing to pay, or an amended request from you within 10 business days from the date of this letter, we will assume you are no longer interested in obtained the requested records and will consider your request withdrawn.

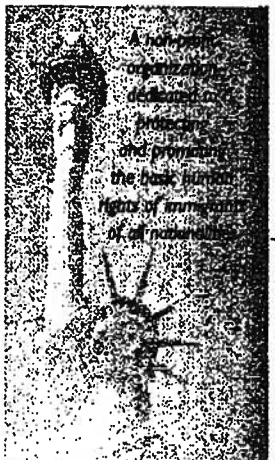
If you have any questions, or would like to discuss this matter, please feel free to contact our office at (202) 732-0300. Please refer to **2011FOIA4250** in all future correspondence.

Sincerely,

FOR

Catrina M. Pavlik-Keenan
FOIA Officer

Enclosures: December 17, 2010 FOIA Request
December 22, 2010 Acknowledgment Letter



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February 2, 2011
Via Fax (202) 732-0310

FOIA Office
U.S. Immigration and Customs Enforcement
800 North Capitol St., N.W.
5th Floor, Suite 585
Washington, D.C. 20536

RE: ICE FOIA Case Number 2011FOIA4250

Dear Ms. Pavlik-Keenan:

This is in response to your January 25, 2011 letter, which also enclosed an acknowledgment letter dated December 22, 2010 that was not previously received by our office.

Your January 25, 2011 letter states that "the total estimated search and duplication expenses for processing" our request will exceed $25.00, and asks that we either confirm the amount we are willing to pay or narrow the scope of our request. The letter does not, however, notify us of the actual or estimated amount of the fees.

DHS regulations provide:

> When a component determines or estimates that the fees to be charged under this section will amount to more than $25.00, the component shall notify the requester of the actual or estimated amount of the fees, unless the requester has indicated a willingness to pay fees as high as those anticipated. If only a portion of the fee can be estimated readily, the component shall advise the requester that the estimated fee may be only a portion of the total fee.

6 C.F.R. § 5.11(e) (emphasis added).

As your January 25, 2011 letter does not comport with the requirement that a requester be provided an estimate of the fees, we do not believe the letter is adequate notice under 6 C.F.R. § 5.11(e), and therefore has not tolled the agency's time to process the request. See 6 C.F.R. § 5.11(e) (providing that following notice under this provision, no further work shall be done on a request "until the requester makes a firm commitment to pay the anticipated total fee.").



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Please be advised that we decline to narrow the scope of our request, as all the information requested is vital to the public's understanding the basis for the Government's resumption of deportations to Haiti at a time when deportation places deportees' lives at risk.

We ask that you notify us without further delay of the actual or estimated cost of processing our request. Moreover, we believe the request qualifies for waiver or reduction of any fee, given that: (1) disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the Government's action in resuming deportations to Haiti under unsafe conditions; and (2) disclosure is not in the commercial interest of the requester, a non-profit legal services agency that serves the South Florida immigrant community, including a large Haitian population dramatically affected by the Government's actions. See 6 C.F.R. § 5.11(k).

The Government has provided next to no information to the public about its resumption of deportations to Haiti at a time when that country is still reeling from a devastating earthquake, suffering a cholera outbreak, and in a state of political and civil crisis. Nor has the Government provided information about the effect of its sudden decision on the individuals' affected, many of whom were plucked from their lives and their American families without warning to be sent off to remote jails in Louisiana awaiting an unknown but perilous fate. See 6 C.F.R. § 5.11(k)(2). Release of the requested information will therefore contribute significantly to the public's understanding of the Government's operations and activities. Id. Our expertise in the fields of immigration and removal will allow us to effectively convey this information to the public, as we regularly do in our press releases, press conferences, and other communications to the public about the Government's operations and activities in these areas. Id.

Should your office provide further notification consistent with 6 C.F.R. § 5.11(k) as to the actual or estimated cost for processing our request, we reserve the right to agree to pay the estimated cost or supplement our request for waiver or reduction of the fees. We look forward to your prompt response.

Sincerely,

Cheryl Little, Esq.
Executive Director

A non-profit organization dedicated to protecting and promoting the basic human rights of immigrants of all nationalities

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February 24, 2011
Via Fax (202) 732-0310

FOIA Appeals
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
800 North Capitol St., N.W., Stop 5009
Washington, D.C. 20536-5009

RE: FOIA Appeal – Denial of Fee Waiver Request
Case Number 2011FOIA4250

Dear FOIA Appeals:

On December 17, 2010, Florida Immigrant Advocacy Center (FIAC), a non-profit legal services agency that defends the rights of immigrants, filed a Freedom of Information Act for information related to the U.S. Government's sudden and unexplained decision to re-detain Haitians previously released and resume deportations to Haiti, even though that country remains unstable and unsafe since the devastating earthquake of January 12, 2010.

As an overview, FIAC has requested information pertaining to:

(1) Use of force by ICE against detainees, suicide threats/attempts, detainee requests to speak with family and/or attorneys, medical requests, grievances and other complaints at detention facilities where Haitians slated for deportation were summarily re-detained and/or transferred away from families and their attorneys without notice, for purposes of deportation to an unsafe and unstable country (Items 1-4);

(2) The adoption, implementation, basis for, and scope of the Government's new policy to resume deportations to Haiti (Items 5-9);

(3) The individuals affected by the Government's new policy to resume deportations to Haiti (Items 10-11); and

(4) Arrangements by the Government to deport Haitians to Haiti or a third country, including any plans with other U.S. Government agencies or international entities (Items 12-17).

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Rather than provide the requested information, on January 31, 2011, ICE-FOIA stated it would not continue processing the request unless FIAC stated in writing "the amount which you are willing to pay for the processing of your request," without even providing an estimate of the anticipated cost or considering the applicability of the statute's fee waiver provisions. ICE-FOIA attached a letter dated December 22, 2010 which had never previously been received by this office.

On February 2, 2011, FIAC objected to the January 31, 2011 letter as inconsistent with the agency's own regulations for failing to provide a cost estimate, see 6 C.F.R. § 5.11(e), and specifically requested a waiver of any fees, see id. § 5.11(k).

As to the fees, we stated:

> [W]e believe the request qualifies for waiver or reduction of any fee, given that: (1) disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the Government's action in resuming deportations to Haiti under unsafe conditions; and (2) disclosure is not in the commercial interest of the requester, a non-profit legal services agency that serves the South Florida immigrant community, including a large Haitian population dramatically affected by the Government's actions.
>
> The Government has provided next to no information to the public about its resumption of deportations to Haiti at a time when that country is still reeling from a devastating earthquake, suffering a cholera outbreak, and in a state of political and civil crisis. Nor has the Government provided information about the effect of its sudden decision on the individuals' affected, many of whom were plucked from their lives and their American families without warning to be sent off to remote jails in Louisiana awaiting an unknown but perilous fate. See 6 C.F.R. § 5.11(k)(2). Release of the requested information will therefore contribute significantly to the public's understanding of the Government's operations and activities. Id. Our expertise in the fields of immigration and removal will allow us to effectively convey this information to the public, as we regularly do in our press releases, press conferences, and other communications to the public about the Government's operations and activities in these areas. Id.

By letter dated February 15, 2011, ICE-FOIA stated that "[t]he cost incurred so far in processing your request is $1,891.00." ICE-FOIA then denied the fee waiver request without stating any basis. That decision was arbitrary and capricious.

A non-profit organization dedicated to protecting and promoting the basic human rights of immigrants of all nationalities

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It is plain that the factors relevant to granting a fee waiver request have been met in this case. The subject of the requested records concerns the operations and activities of the Government, specifically its decision to resume deportations to Haiti while that country is unstable and unsafe, the treatment of Haitian detainees previously released but then re-detained for deportation, the scope of the new policy and who is affected by it, and arrangements and other plans for the removal of Haitians. Disclosure is not in the requester's commercial interest, as FIAC is a non-profit legal services agency that defends the rights of immigrants, including the large Haitian population in South Florida dramatically affected by the Government's actions. Rather, disclosure will contribute significantly to understanding by the public at large of the Government's actions.

To date, the Government has provided next to no information to the public about its resumption of deportations to Haiti at a time when that country is still reeling from a devastating earthquake, suffering a cholera outbreak, and in a state of political and civil crisis. See, e.g., Kirk Semple, *Haitians in U.S. Brace for Deportations to Resume*, N.Y. Times (Dec. 19, 2010). Nor has the Government provided information about those affected, many of whom were plucked from their lives and their American families without warning to be sent off to remote jails in Louisiana awaiting an unknown but perilous fate. See id. (describing how Obama Administration had been "moving quietly" to resume deportations to Haiti, failed to elaborate as to who will be deported under the new policy, and did not say how many people would be deported).

ICE's refusal to furnish the public with information about its actions has also been chronicled in the international press. See, e.g., Mark Dow, *Stop these inhumane deportations to Haiti now*, The Guardian (United Kingdom), (Feb. 8, 2011) (reporting that ICE declined to answer questions about the resumed deportations to Haiti "despite repeated emails, even after indicating that answers were on the way," including: whether, Haitians who do not pose any threat to public safety would not deported, why ICE refuses to allow Haitians slated for deportation to remain under strict orders of supervision as it does with similarly-situated Cubans, and for clarification as to this policy given Haiti's devastated infrastructure, a cholera epidemic, and political turmoil).

This remains the case even after the death of Wildrick Guerrier, a 34 year-old longtime resident of the United States who was deported away from his American family in late January only to die with cholera-like symptoms after being detained in inhumane conditions upon arrival to Haiti, as human rights advocates said he would be. See Ruth Messinger, *Chronicle of a Death Foretold*, American Jewish

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World Service (Feb. 17, 2011) ("Even following this tragic death, the Department of Homeland Security (DHS) has not yet issued any written guidelines explaining their new policy on Haitian deportations," nor explained the reason for the decision, whether any change in circumstances in Haiti justifies the new policy, who will fall under the new policy as slated for deportation and on what basis).

Release of the requested information will therefore contribute significantly to the public's understanding of the Government's operations and activities. See 6 C.F.R. § 5.11(k)(2). FIAC's expertise in the fields of immigration and removal will allow us to effectively convey this information to the public, as we regularly do in our press releases, press conferences, and other communications to the public about the Government's operations and activities in these areas. Id.

The public should not have to pay nearly $2,000 for the Government to account for its actions, particularly when those actions are placing human lives at risk.

We therefore ask that these fees be waived and the requested information provided without further delay. We look forward to your prompt response.

Sincerely,

Cheryl Little, Esq.
Executive Director

Enc.

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December 19, 2010

Haitians in U.S. Brace for Deportations to Resume

By KIRK SEMPLE

The Obama administration has been quietly moving to resume deportations of Haitians for the first time since the earthquake last January. But in New York's Haitian diaspora, the reaction has been far from muted, including frustration and fear among immigrants and anger from their advocates, who say that an influx of deportees will only add to the country's woes.

Haiti is racked today by a cholera epidemic and political turmoil, as well as the tortuously slow reconstruction.

"I don't think Haiti can handle more challenges than what it has right now," said Mathieu Eugene, a Haitian-American member of the New York City Council. "The earthquake, the cholera, the election — everything's upside down in Haiti."

Federal officials suspended deportations to Haiti immediately after the Jan. 12 earthquake. In addition, a special immigration status, sometimes granted to foreigners who are unable to return safely to their home countries because of armed conflict or natural disasters, was extended to Haitians in the United States, allowing them to remain temporarily and work. Many Haitians, including some with criminal convictions, were also released from detention centers across the country.

But in recent weeks, Immigration and Customs Enforcement, an arm of the Department of Homeland Security, has begun rounding up Haitian immigrants again, including some who had been released earlier this year, immigration lawyers said. On Dec. 10, the agency disclosed, in response to questions from The Associated Press, that it would resume deportations by mid-January.

Immigration officials said they would deport only Haitians who had been convicted of crimes and had finished serving their sentences.

Barbara Gonzalez, a spokeswoman for Immigration and Customs Enforcement, said in a statement last week that the agency was deciding whom to deport in a manner "consistent with

our domestic immigration enforcement priorities," but did not elaborate. The Obama administration has said it is focusing immigration enforcement efforts on catching and deporting immigrants who have been convicted of the most serious crimes or who pose a threat to national security.

Haitians who have been granted the special immigration status, known as temporary protected status, will continue to be shielded from deportation, officials said. The protection was granted for 18 months and is set to expire in mid-July; Haitians who have committed felonies or at least two misdemeanors were not eligible for the program.

Immigration officials did not say how many people they planned to send back to Haiti when deportations resume next month, but they revealed last week that 351 Haitians were in detention.

Mr. Eugene and other Haitian community leaders in New York said that despite the limits of the government's plan, the city's Haitians were bracing for a resumption of wider deportations.

"The people in the community are worried because they don't know what the next target population is going to be," Mr. Eugene said.

Ricot Dupuy, the manager of Radio Soleil, a Creole-language station in Flatbush, Brooklyn, said he had been "flooded with calls" about the plans for deportations.

Immigration officials would not say when they planned to resume deportations of noncriminals. The Haitian government has apparently not commented on Washington's decision to resume deportations. The consul general in New York did not respond to phone messages, and the Haitian Embassy did not respond to calls and e-mails.

Nearly a year after the quake, an estimated 1.3 million Haitians are still displaced from their homes. The cholera outbreak has killed more than 2,500 people and hospitalized 58,000 more, according to the Haitian government. And disputes over the preliminary results of the presidential election last month have escalated into violence.

Advocacy groups have been lobbying the Obama administration to postpone the deportations. The Center for Constitutional Rights, based in New York, wrote President Obama to say that their resumption would endanger the deportees' lives. The Haitian government often detains criminals deported from abroad, the organization said; because cholera is quickly spreading through that country's detention system, the policy "would end up being a death sentence for many," it said.

An official of Immigration and Customs Enforcement said the State Department had been working with Haitian officials "to ensure that the resumption of removals is conducted in a safe, humane manner with minimal disruption to ongoing rebuilding efforts."

Among those who have been rounded up in the past several weeks is a 42-year-old odd-jobs man who was detained last week by immigration officials in Manhattan and was being held on Friday in a jail in Hudson County, N.J., said his lawyer, Rachel Salazar, who asked that her client's name be withheld because she did not want to jeopardize his case.

The man, who immigrated to the United States as a legal permanent resident in 1990 and has a 5-year-old child, was last detained in February because of three past felony convictions, including for assault, petty larceny and attempted robbery, for which he had served time. But he was released in May, during the moratorium on deportations, Ms. Salazar said.

The detainee said he was being held with about 40 other Haitians, the lawyer said, and he had not been told when the government planned to deport him.

Julia Preston and Deborah Sontag contributed reporting.

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Stop these inhumane deportations to Haiti now

The US immigration service has restarted 'removals' to Haiti in spite of cholera and chaos, and won't even answer for its actions



Mark Dow
guardian.co.uk, Tuesday 8 February 2011 16.30 GMT

A larger | smaller



A cholera outbreak in rural Haiti now threatens earthquake survivors in the capital, Port-au-Prince. One recent deportee from the US has died in prison of symptoms consistent with cholera. Photograph: Ramon Espinosa/ AP/AP

The Obama administration's immigration service, like its predecessor, is doing all it can to evade accountability.

After the US deported Wildrick Guerrier in late January, he was jailed by Haitian authorities, just as human rights groups had said he would be. Haiti regularly jails deportees who have criminal convictions in the US, for varying lengths of time. Guerrier was among a group of 27 Haitians "removed" from the US, the first group to be returned since the earthquake a year ago.

Beth Gibson is the assistant deputy director of US Immigration and Customs Enforcement (ICE), which is the agency in the Department of Homeland Security responsible for carrying out these deportations or "removals". A few days after the Haitians were flown from Louisiana jails to Port-au-Prince, I asked Gibson what ICE could tell us about their treatment in Haiti. She declined to answer this, and other questions, despite repeated emails, even after indicating that answers were on the way.

In fact, all 27 deportees were jailed by Haitian authorities on their return, according to Rebecca Sharpless, director of the University of Miami Law School's Immigration Clinic (pdf). Deportation opponents had warned the US government about the potential consequences of deportees being confined to an overcrowded Haitian jail cell during a cholera epidemic. A little more than a week after his deportation, Guerrier was dead. "While in jail in Haiti, Guerrier suffered from cholera-like symptoms, including extreme vomiting and uncontrollable diarrhoea," according to the Florida Immigrant Advocacy Centre (FIAC). "He died shortly thereafter."

Guerrier had been serving an 18-month sentence for firearms possession when ICE took him into custody. He was 34 when he died, and had lived half his life in the United States. Contrary to popular perception, most of these deportees were lawful permanent residents, not "illegals". ICE has said that this year – even after the news of Guerrier's death – its goal is to deport 700 Haitian "criminal aliens", a term wielded to prevent the public from distinguishing murderers from traffic-law violators, and drug-users from people charged with crimes but never convicted.

Since ICE has said that these Haitians are being removed in the interest of "public safety", it makes sense to ask whether Haitians who do *not* pose any threat to public safety can assume they will *not* be deported before conditions in Haiti improve. ICE's Gibson would not answer that.

There are good reasons that these Haitians should not be deported at all; but if they're going to be, ICE has the authority to release them for now while imposing strict reporting requirements on them. Cubans, for example, who were subjected to indefinite detention before the supreme court ruled that ICE must release them until the US starts deportations to Cuba – some were incarcerated for decades before the ruling – now line up outside immigration offices to comply with reporting requirements.

So why does ICE refuse to allow the Haitians currently slated for deportation to remain in the US under strict monitoring conditions as it does with Cubans? Gibson declined to answer.

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US immigration policy has discriminated against Haitians for a long time. In the 1980s and 1990s, Republican and Democratic administrations falsely claimed that Haitians sent back to paramilitary violence and dictatorship were not in danger. Now, asked whether ICE has any comment on the death of Guerrier, the ICE public affairs office has referred questions about what it terms "any alleged deaths that have occurred in Haiti" to the state department.

On 4 February, in response to an emergency petition from the Centre for Constitutional Rights and other groups, the Inter-American Commission on Human Rights said that it "urges the United States to suspend the deportation of Haitians who are seriously ill or who have family ties in the United States."

Even before Guerrier died, human rights groups were asking ICE for a public statement clarifying the agency's policy on these removals at a time when Haiti is still struggling with devastated infrastructure, a cholera epidemic and political turmoil. ICE has been promising such a statement for weeks, so I asked Beth Gibson when ICE would provide it. She declined to answer.

No answers can help Wildrick Guerrier now, but it is not too late for the White House to change this inhumane policy before it kills others.

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February 18, 2011

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Ruth Messinger

President and Executive Director, American Jewish World Service

Posted: February 17, 2011 03:23 PM

Chronicle of a Death Foretold

Fr. Michael A. Evans, S.J., National Director, Jesuit Refugee Service/USA, co-authored this piece.

In early December, less than a year after the devastating earthquake that sent Haiti reeling into a downward spiral of death, destruction, displacement, and cholera, the Department of Homeland Security quietly announced to a small group of legal service providers and Haitian Americans that it planned to resume deportations of some Haitian nationals residing in the United States.

Human rights and religious organizations warned the U.S. government in face-to-face meetings, letters and phone calls that this new policy was dangerous and immoral, that deporting Haitians to Haiti at this time would place strain on an already over-stressed system. We warned that Haiti did not have the capacity to guarantee the safety of those deported and that Haitians who are deported are placed in holding cells with no access to food and clean water until they are fetched by a family member. These facilities had already proven to be rife with cholera. The U.S. government assured advocates and experts that a reintegration plan for those deported would be in place and that the Haitian government had given them guarantees that the human rights and human dignity of deportees would be respected.

Despite the pleas of American Jewish World Service and Jesuit Refugee Service/USA to reconsider the timing of the deportations, the Department of Homeland Security proceeded with its plan, rounding up about 300 Haitians up in Florida, New York, and other areas of the country, and shipping many of them to Louisiana to be prepped for deportation. Wildrick Guerrier, a 34-year-old man who had served an 18-month prison term before he was taken into Immigration and Customs Enforcement (ICE) custody was among those sent to Louisiana, away from his family, his legal service provider, and his fiancée. Mr. Guerrier was reportedly frightened to return to country he had not set foot in since he was a teenager, a country inhabited by more than a million people displaced

by the earthquake, in the grips of a cholera epidemic, and where he had no family connections.

On January 20th Mr. Guerrier and 26 other Haitian nationals were returned to Haiti. He was indeed placed in a Haitian jail where he was given access to no food or water. A week after his deportation, after suffering cholera-like symptoms including extreme vomiting and uncontrollable diarrhea, Mr. Guerrier died.

Mr. Guerrier's death was predictable and avoidable. As faith-based organizations laboring to ease suffering and support reconstruction in Haiti, we are writing this piece, with the hope that no more preventable deaths will result from this wrong-headed policy that not only undermines the relief efforts in Haiti, but also violates our common belief in the sanctity and dignity of the human person.

Even following this tragic death, the Department of Homeland Security (DHS) has not yet issued any written guidelines explaining their new policy on Haitian deportations. Instead it has given verbal briefings to a limited group of stakeholders stating that the U.S. government will initially detain and deport individuals with "serious criminal convictions" but has not defined what that means.

Jesuit Refugee Service/USA and American Jewish World Service support the enforcement of immigration laws, but we are concerned that the continuing state of emergency in Haiti will jeopardize the lives of those deported and divert resources from the recovery and reconstruction effort. One man has already been sentenced to "death by deportation." Surely the United States will not contribute to further needless deaths.

We are also concerned that it will be nearly impossible for the Haitian state to provide for the safe and dignified reintegration of those deported, many of whom are long-time U.S. residents with no resources in Haiti. We are disturbed by the lack of clarity and transparency of DHS, which has provided no details as to how this might be accomplished. It is difficult to understand why this decision has been made at a time when Haiti is experiencing increasing political unrest and rising criminal activity. Placing the additional burden of dealing with these deportees on already overwhelmed Haitian government officials at this time is a bad decision.

As Claudine Magloire, Mr. Guerrier's fiancé and herself a U.S. permanent resident, lamented:

"The U.S. government has caused my fiancée to die," she said. "The deportations to Haiti need to stop."

We call on the Department of Homeland Security to clarify their new policy and to provide an explanation of how conditions have materially changed in Haiti to justify the resumption of deportations, which have been suspended since the earthquake. We applauded the initial decision to grant Temporary Protected Status (TPS) after the earthquake and in this context hope we can return to policies that reflect our national values.

Follow Ruth Messinger on Twitter: www.twitter.com/ruth_messinger

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February 24, 2011
Via Fax (202) 732-0310

FOIA Appeals
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
800 North Capitol St., N.W., Stop 5009
Washington, D.C. 20536-5009

RE: FOIA Appeal – Denial of Fee Waiver Request
Case Number 2011FOIA4250

Dear FOIA Appeals:

On December 17, 2010, Florida Immigrant Advocacy Center (FIAC), a non-profit legal services agency that defends the rights of immigrants, filed a Freedom of Information Act for information related to the U.S. Government's sudden and unexplained decision to re-detain Haitians previously released and resume deportations to Haiti, even though that country remains unstable and unsafe since the devastating earthquake of January 12, 2010.

As an overview, FIAC has requested information pertaining to:

(1) Use of force by ICE against detainees, suicide threats/attempts, detainee requests to speak with family and/or attorneys, medical requests, grievances and other complaints at detention facilities where Haitians slated for deportation were summarily re-detained and/or transferred away from families and their attorneys without notice, for purposes of deportation to an unsafe and unstable country (Items 1-4);

(2) The adoption, implementation, basis for, and scope of the Government's new policy to resume deportations to Haiti (Items 5-9);

(3) The individuals affected by the Government's new policy to resume deportations to Haiti (Items 10-11); and

(4) Arrangements by the Government to deport Haitians to Haiti or a third country, including any plans with other U.S. Government agencies or international entities (Items 12-17).

U.S. Department of Homeland Security
800 North Capitol Street, NW #585
Washington, DC 20536-5009

U.S. Immigration and Customs Enforcement

March 16, 2011

CHERYL LITTLE, ESQ.
FIAC
3000 BISCAYNE BLVD. SUITE 400
MIAMI, FL 33137

RE: OPLA11-093, 2011FOIA4250

Dear Ms. Little:

This is in response to your letter dated December 23, 2010, appealing the adverse determination in response to your Freedom of Information Act/Privacy Act (FOIA/PA) request. The initial request asked for the following 17 categories of information:

1. Any and all use of force reports, and any other records and information related to the use of force, including but not limited to audio and video recordings, involving any individual detained by or for U.S. Immigration and Customs Enforcement at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana) and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present.
2. Any and all incident reports, and any other records and information related to any incident involving any individual detained by or for U.S. Immigration and Customs Enforcement at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana) and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present.
3. Any and all information pertaining to any threat of suicide, special housing for suicide watch, logs for suicide watch, suicide attempts and suicides at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana) and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present.
4. Any and all sick call requests, grievances, petitions, complaints, requests to contact family members, requests to contact attorneys (and responses to any of the foregoing) made by any detainee at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana) and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present.

5. Any and all documents, communications, emails, reports and other information reflecting or describing the new policy decision to resume deportations to Haiti ("new policy") either directly or through a third country, from January 2010 to the present;
6. Any and all communications, recommendations, memoranda, analyses, evaluations, directions, instructions, and other information prepared, relayed or communicated by or to ICE Field Offices regarding the new policy, both prior to and subsequent to its adoptions;
7. All documents and any other information relied on or cited as the basis(es) for the new policy decision to resume deportations to Haiti, either directly or through a third country;
8. All documents reflecting "the profile" or any other criteria, description, or classification of those ICE or any other entity has identified as amendable to deportation under the new policy;
9. All documents relied on by any agency or entity to determine that any individual "fits the profile" of those ICE or any other entity has identified as amenable to deportation under the new policy;
10. A complete list of the names, A Numbers, countries of birth, dates of birth, nationalities, states of residency, length of time in the United States, prior immigration status, and any convictions (include state of conviction, statute of conviction, date of conviction, judgment, sentence imposed and sentence served) of those ICE or any other entity has identified as amenable to deportation under the new policy.
11. Any and all information regarding the apprehension of individuals who were on orders of supervision or any other form of release from November 15, 2010 to the present for the purpose of deporting those individuals pursuant to the new policy, including but not limited to the date, location and manner of apprehension, and any and all documentation reflecting each individual's compliance with, or failure to comply with, any order of supervision or other form of conditional release;
12. Any and all documents, plans, agreements and communications regarding Justice Prisoner & Alien Transportation System (JPAT) flights or any other logistical arrangements to repatriate individuals to Haiti either directly or through a third country under the new policy;
13. Any and all documents or other records reflecting any agreements, understandings, arrangements, plans, programs and communications with the Government of Haiti regarding the new policy, including but not limited to all information on any financial arrangements related in any way to the new policy;
14. Any and all documents, communications and other records reflecting the Government of Haiti's consent to accept deportees under the new policy;
15. Any and all documents, communications and other records reflecting any agreements, understandings, arrangements, plans, programs or other communications with any other Unites States agency regarding the new policy;
16. Any and all documents, communications and other records reflecting any agreements, understandings, arrangements, plans, programs or other communications with any other United States agency regarding the new policy; and
17. Any and all documents, communications and other records reflecting any agreements, understandings, arrangements, plans, or programs with any other entity, including but not limited to the International Office for Migration (IOM), regarding the new policy.

U.S. Immigration and Customs Enforcement (ICE) initially denied your request in part by denying your request for expedited processing and by denying your request for a fee waiver. You have appealed the decision to deny your request for a fee waiver. ICE has further reviewed your request in question that gave rise to this partial denial of your request. Our analysis follows.

Fee waivers are properly granted "if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester."[1] More specifically, the Department of Justice issued revised fee waiver policy guidance on April 2, 1987.[2] These regulations set forth six factors to examine in determining whether the applicable legal standard for fee waiver has been met. Those six factors are as follows: (1) whether the subject of the requested records concerns "the operations or activities of the government"; (2) whether the disclosure is "likely to contribute" to an understanding of government operations or activities; (3) whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requestor of a narrow segment of interested persons; (4) whether the contribution to public understanding of government operations or activities will be "significant"; (5) whether the requester has a commercial interest that would be furthered by the requested disclosure; and (6) whether the magnitude of any identified commercial interest to the requestor is sufficiently large in comparison with the public interest in disclosure that disclosure is primarily in the commercial interest of the requestor.

You have appealed, specifically indicating that the requested information would significantly contribute to the public's understanding of Government actions. Additionally, you have argued that no commercial interest of FIAC would be served by the request "as FIAC is a non-profit legal services agency that defends the rights of immigrants."

As to the first requirement, there is no questioning that the requested information concerns the operations or activities of the government. Within the 17 item request, documents sought specifically include incident reports, policy decisions, use of force reports, and other documentation concerning government activities.

The second requirement requires that the disclosure "likely contribute" to the understanding of the public at large regarding specific government operations or activities. Many of the records, such as finalized agency policy and other documents within the Haitian Refugee Immigration Fairness Act (HRIFA) reports are publicly available.[3] However, this is not determinative as to the fee waiver request as there are additional items included in the request which are not readily available to the public.

The third requirement necessitates that disclosure contribute to the understanding of the public at large, as opposed to the individual understanding of the requester or a narrow segment of interested persons.[4] More specifically, agencies must evaluate the ability of the requester to disseminate the information.[5] Furthermore, the intended method of that dissemination[6] must be included in the request for a fee waiver.

In the case at hand, the original request submitted did not include a request for a fee waiver. The subsequent letter from the requester, after a search by the agency had already been conducted, dated February 2, 2011, requested a waiver of fees based upon an assertion that the disclosure of the information is in the public interest and that the disclosure was not in the commercial interest of the

[1] See, Piper v. U.S. Dep't of Justice, 294 F. Supp. 2d 16, 24 (D.D.C. 2003).
[2] See, 5 U.S.C. § 552(e); see also FOIA Update, Vol. XIX, No. 3, at 6; FOIA Update , Vol. XIV, No. 3, at 8.
[3] See, http://www.ice.gov/foia/readingroom.htm.
[4] See, Forest Guardian v. U.S. Dept. of Interior, 416 F.3d at 1179 (10th Cir. 2005).
[5] Ortloff, No. 98-2819. slip op. at 21 (D.D.C. Mar. 22, 2002).
[6] Hall v. CIA, No. 04-0814, 2005 WL 850379, at 7 (D.D.C. Apr. 13, 2005).

requester, as the requester is a non-profit legal services agency. As an aside, "non-profit" status is not determinative of the commercial nature of information for the purposes of the fifth factor in assessing the propriety of a fee waiver.[7] It is not necessary to determine the commercial nature of the information requested, as the request fails to specify the ability of the requester to disseminate the information or the intended method of dissemination.

As such, the determination regarding the denial of a fee waiver request was proper in all respects under the applicable provisions of 5 U.S.C. § 552 cited above.

The Office of Government Information Services (OGIS) also mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. If you wish to contact OGIS, you may email them at ogis@nara.gov or call 1-877-684-6448.

This decision is the final action of the Department of Homeland Security concerning your FOIA/PA request for expedited processing and a waiver of fees. Inasmuch as you consider this to be a denial of your appeal, you may obtain judicial review of this decision pursuant to the provisions of 5 U.S.C. § 552(a)(4)(B) in the United States District Court in the district in which you reside, or in which the agency records are situated, or in the District of Columbia.

Should you have any questions regarding this appeal closure, please contact ICE at ice-foia@dhs.gov. In the subject line of the email please include the word "appeal", your appeal number, which is **OPLA11-093** and the FOIA case number, which is **2011FOIA4250**.

Sincerely,

Susan Mathias
Chief
Government Information Law Division
ICE Office of the Principal Legal Advisor
Department of Homeland Security

[7] Critical Mass Energy Project v. NRC, 830 F.2d 278, 281 (D.C. Cir. 1987).

A non-profit organization dedicated to protecting and promoting the basic human rights of immigrants of all nationalities

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May 11, 2011
Via Federal Express &
Email ice-foia@dhs.gov

FOIA Appeals
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
800 North Capitol St., N.W., Stop 5009
Washington, D.C. 20536-5009

RE: FOIA Appeal OPLA 11-093 (2011FOIA4250)
Request for Reconsideration of Fee Waiver Denial

Dear FOIA Appeals:

On December 17, 2010, Florida Immigrant Advocacy Center (FIAC), a non-profit legal services agency that defends the rights of immigrants, filed a Freedom of Information Act for information related to the U.S. Government's sudden and unexplained decision to re-detain Haitians previously released and resume deportations to Haiti, even though that country remains unstable and unsafe since the devastating earthquake of January 12, 2010.

By letter dated February 15, 2011, ICE denied our request for a fee waiver without explanation. We appealed that denial on the basis that the original request was fully justified under the statutory standard. By letter dated March 16, 2011, ICE denied our appeal of that decision, stating for the first time that FIAC had not specified our ability to disseminate the requested information to the public and the intended methods of dissemination.

FIAC now seeks reconsideration of the appeal denial and submits additional evidence to address directly ICE's stated basis for the denial. We respectfully request that ICE reconsider its decision and grant the requested fee waiver.

Sincerely,

Cheryl Little, Esq.
Executive Director

Enc.

DECLARATION OF SUSANA BARCIELA

1. My name is Susana Barciela. I am Policy Director at the Florida Immigrant Advocacy Center ("FIAC") in Miami.

2. My professional background is in the news media. I came to FIAC from The Miami Herald, where I served as a writer for its Editorial Board for 11 years. Over the years, I have been recognized for my writing on immigration issues by the Inter-American Press Association, Women's Commission for Refugee Women & Children and the American Immigration Lawyers Association. Before joining the Editorial Board, I was a business writer and columnist at the newspaper.

3. My work at FIAC involves regular dissemination of information to the public for the purpose of informing the public about pressing immigration policy matters.

4. After collecting and documenting information, I disseminate that information to the public by a variety of means, including by issuing press releases to state and national media contacts; holding press conferences; posting on our website, Facebook page and Twitter; producing comprehensive published reports that are distributed to the community, press and elected officials; and communicating regularly with the English- and Spanish-language media.

5. Our press releases and calls to action on pressing policy matters are disseminated electronically using Constant Contact®, a leading social networking site through which FIAC sends informational email "blasts" to more than 10,000 individuals and organizations throughout the United States.

6. FIAC has long been involved in advocacy and dissemination of information related to the U.S. Government's treatment of Haitian immigrants.

7. In recent months, FIAC with its partners has drafted and disseminated to the public many press releases and calls to action related to the Government's resumption of deportations to Haiti in December 2010. Attached, and listed below, are various examples:

 a. *Stop Haitian Deportations*, News Release and Petition Distributed for Electronic Signature, December 15, 2010;

 b. *Rights Groups File Emergency Human Rights Petition to Stop Imminent Deportations to Haiti*, News Release, January 6, 2011;

 c. *Deportations to a Death Trap*, News Release, January 20, 2011;

 d. *Request for Precautionary Measures Before the Inter-American Commission on Human Rights (Summary)*, Posted on FIAC Website, January 24, 2011;

 e. *Death by Deportation*, News Release, January 31, 2011;

f. *Haitian Deportation Death*, Press Conference, February 2, 2011;

g. *International Human Rights Commission Summons U.S. to Stop Deportations to Haiti Following First Deportee Death*, News Release, February 4, 2011;

h. *Take Action: Tell ICE to Halt All Deportations to Haiti*, Call for Action, March 16, 2011;

i. *Comments on ICE's Proposed Policy for Resumed Removals to Haiti*, Public Comment (prepared by FIAC and its partners, with additional organizational and individual sign-ons from around the United States; submitted to ICE with copies to high-ranking officials in the White House, National Security Council, State Department and DHS), March 14, 2011;

j. *ICE Formalizes Policy to Deport Haitians During Humanitarian Crisis: Groups Denounce Policy as a Death Sentence, Cite Human Rights Violations That Will Result From Deportations*, News Release, April 6, 2011;

k. *Stop Deportations to Haiti!*, Press Conference, April 15, 2011;

l. *ICE Begins Second Round of Deportations to Haiti During Humanitarian Crisis: January Deportation Led to Death*, News Release, April 15, 2011;

m. FIAC Website Media Page Print-Out, April 30, 2011.

8. In addition, the local, state and national press regularly look to FIAC for information regarding the U.S. Government's treatment of Haitian immigrants because of FIAC's recognized expertise in the area of immigration and strong ties to the Haitian community.

9. Attached, and listed below, are various articles regarding the U.S. Government's treatment of Haitians where FIAC representatives have recently been cited or quoted, in addition to those already submitted:

a. *33 Haitian quake survivors freed by immigration officials in Florida*, by Jennifer Rizzo, CNN.com, April 1, 2010 (reporting release of FIAC clients who fled Haitian earthquake only to be jailed on arrival);

b. *Quake Survivors Freed From Immigration Jails*, by Nina Bernstein, N.Y. Times, April 1, 2010;

c. *Immigration reform needed for U.S. economy and for Haiti*, by Cheryl Little, CNN.com, May 7, 2010 (opinion piece by FIAC Executive Director describing challenges faced by Haitian immigrants in the United States);

d. *Local Haitian leaders uneasy as immigration officials prepare to resume deporting illegals*, by Stephen Beardsley, Naples Daily News, December 20, 2010

(citing FIAC concerns that deportations are unconscionable at a time when conditions in Haiti are even worse than right after the earthquake);

e. *Protests Surround Planned Deportations to Haiti*, CBS Miami, December 20, 2010 (cites FIAC report that Haitians held at the Krome detention center in Miami were recently transferred away from their families and attorneys to facilities in rural Louisiana, and that the resumption of deportations has instilled fear in the Haitian community even among those who would qualify for temporary protected status);

f. *U.S. resumes deportations of Haitians*, by Marina Giovanelli, PRI's The World, January 13, 2011 (citing FIAC's concern about the lack of information from the U.S. Government about the resumption of deportations and the reasons for it);

g. *Updated: Confusion Over Haitian Deportations After Victim's Fiance Blames U.S. Government for Death*, by Michael Miller, Miami New Times, February 3, 2011 (describing FIAC press conference where it was reported that one of the first deportees had died of cholera-like symptoms shortly after arriving in Haiti; and providing update by FIAC that following the death of this Haitian deportee, the U.S. Government had suspended deportations for the month of February).

10. FIAC also disseminates information to the public through the publication of reports. In January 2011, for example, we released *After the Earthquake: Haitian Children Seeking Safety in the United States* (available at http://fiacfla.org/34841_FL_Advocacy_newsletter_haiti.pdf).

11. FIAC intends to disseminate to the public the information we requested in our December 17, 2010 FOIA letter to ICE using the methods I have described above, namely through email blasts, press releases, social media, articles and reports.

12. Access to the information requested is critical to ensuring the public is informed about (1) the Government's actions relative to the resumption of deportations to Haiti; (2) the underlying reason(s) for, and scope of, those actions; and (3) the consequences of those actions, such as hunger strikes and suicide threats by Haitians suddenly detained for removal to Haiti while that country is unsafe and unstable.

I, Susana Barciela, declare under penalty of perjury that the foregoing statement is true and correct to the best of my knowledge and belief.

Signed: Susana Barciela Dated: May 11, 2011

Susana Barciela

From: Florida Immigrant Advocacy Center - FIAC [kdoble@fiacfla.org]
Sent: Wednesday, December 15, 2010 4:16 PM
To: Susana Barciela
Subject: Florida Immigrant Advocacy Center News Release - Stop Haitian Deportation

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NEWS RELEASE

Contacts:
Cheryl Little (305) 573-1106 x 1001
(305) 905-2204 clittle@fiacfla.org
Susana Barciela (305) 573-1106 x 1710
(305) 301-9762 sbarciela@fiacfla.org

December 15, 2010

Stop Haitian Deportations

FIND US ON

(Miami, Dec. 15, 2010) - We call on the United States to halt all deportations to Haiti at this time.

Nearly a year after the January 12, 2010 earthquake which devastated that country, 1.5 million people remain homeless, most of them living in tent cities. A recent cholera outbreak has killed more than 2,300 Haitians and has sickened over 104,000 others. A contested election has sparked violence, and both Haiti and its government are on the verge of total collapse. Conditions are so dire that on Thursday the U.S. State Department issued a warning against any travel to Haiti.

Against this backdrop, U.S. Immigration and Customs Enforcement (ICE) has begun to detain, and has stated it will begin to deport, Haitians who have completed criminal sentences in the United States, without any notice to the individuals or their families. On Tuesday, roughly 100 detained Haitians in South Florida were transferred --- again without notice --- to rural Louisiana, ensuring that the detainees will not have access to their families or attorneys before they are deported to an unsafe and unstable Haiti. Just two weeks before Christmas, American family members are devastated to find that they may never see their loved one again. Although Haitians who qualify may register for Temporary Protected States (TPS) through January 18, 2011, many will now be afraid to come forward because of ICE's unprecedented actions.

"Removing individuals to Haiti under these circumstances is unconscionable", said FIAC Executive Director Cheryl Little.

About Florida Immigrant Advocacy Center

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litigates or otherwise challenges patterns of abuse; and educates the public about the impact immigration laws and directives have on our communities. FIAC is dedicated to protecting and promoting the basic rights of immigrants.

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Stop Deportations to Haiti

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To: The Obama Administration

We call on the United States to halt all deportations to Haiti at this time.

Nearly a year after the January 12, 2010 earthquake which devastated that country, 1.5 million people remain homeless, most of them living in tent cities. A recent cholera outbreak has killed more than 2,300 Haitians and has sickened over 104,000 others. A contested election has sparked violence, and both Haiti and its government are on the verge of total collapse. Conditions are so dire that on Thursday the U.S. State Department issued a warning against any travel to Haiti.

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Removing individuals to Haiti under these circumstances is unconscionable.

Sincerely,

The Undersigned

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The Stop Deportations to Haiti Petition to The Obama Administration was **created by Florida Immigrant Advocacy Center and written by Charu al-Sahli** (calsahli@fiacfla.org). This petition is hosted here at www.PetitionOnline.com as

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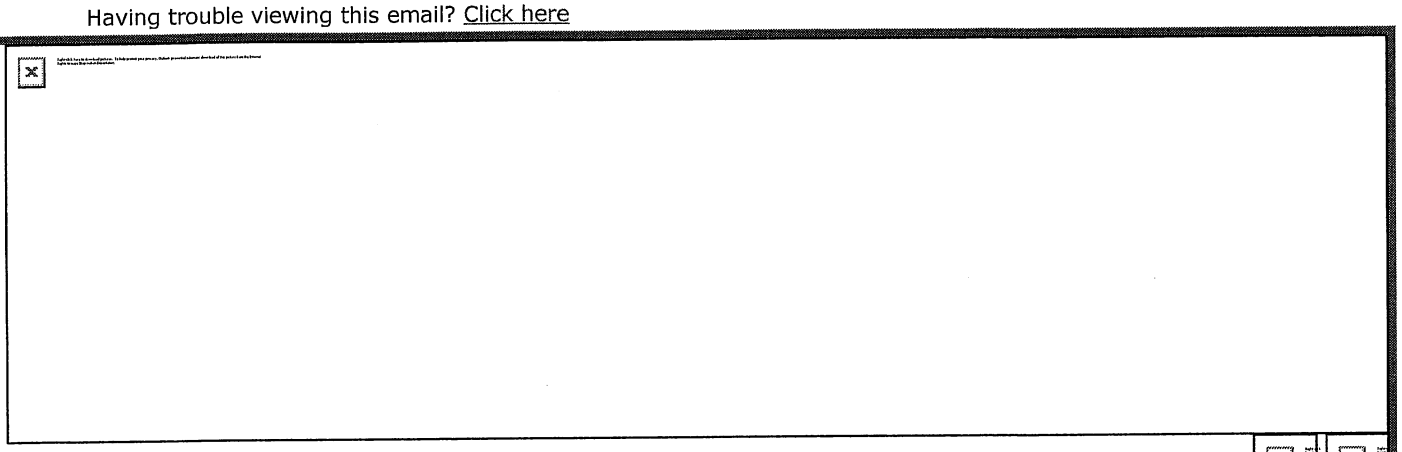
http://www.PetitionOnline.com/fiac2010/petition.html

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Tania Galloni

From: Florida Immigrant Advocacy Center - FIAC [kdoble@fiacfla.org]
Sent: Thursday, January 06, 2011 1:41 PM
To: Tania Galloni
Subject: Rights Groups File Emergency Human Rights Petition To Stop Imminent Deportations To Haiti

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FIND US ON

January 6, 2011, Miami, FL and Washington, D.C. - Today six civil and human rights groups filed an emergency petition with the Inter-American Commission on Human Rights (IACHR), to halt the roundups, detention, and imminent deportations of hundreds of Haitian nationals by the United States government. The petition, submitted by the University of Miami School of Law Human Rights and Immigration Clinics, the Florida Immigrant Advocacy Center, the Center for Constitutional Rights, Alternative Chance, and the Loyola Law Clinic and Center for Social Justice, argues that deporting people at this moment to Haiti, which is still reeling from the devastating January 2010 earthquake and is burdened with a massive cholera epidemic, political unrest, and rampant street violence, will result in serious human rights violations, including deprivations of the rights to life, family, and due process, and freedom from cruel or unusual punishment.

Deportations from the U.S. to Haiti have been stayed on humanitarian grounds since the January 12, 2010 earthquake devastated Haiti. Advocates and community members were shocked when, on December 9, 2010, the United States Immigration and Customs Enforcement (ICE) unexpectedly announced that it was lifting the ban on deportations to Haiti for individuals with criminal convictions and that it would resume deportations in January 2011, the one-year anniversary of the earthquake.

"The U.S. Government is violating important human rights obligations," said Caroline Bettinger-Lopez, Director of the Human Rights Clinic at University of Miami School of Law. "These deportations will compound a catastrophic public health and humanitarian crisis in the poorest country in the Western Hemisphere. It is simply unconscionable to resume deportations to Haiti on the one-year anniversary of one of the most devastating natural disasters in world history, especially as a cholera epidemic rages across the country."

"The upshot of this abrupt change in policy," said Sunita Patel, Staff Attorney with the Center for Constitutional Rights, "is that the Obama administration plans to deport Haitian nationals, many living and working in the community here with their families, to a country in the midst of a cholera epidemic. Since 2006, Haiti has detained people like the petitioners in overcrowded police holding cells without toilets, sinks or access to safe drinking water. The government's actions will only put more people at risk of death."

The petition asks the IACHR to order the U.S. to adopt precautionary measures to prevent irreparable harm to the Haitians subject to imminent deportation. Specifically, the petition asks the U.S. to continue its stay of deportations, release the petitioners and grant "deferred action" status to all people facing removal. In addition, the petition asks that the U.S. government publicly release information about its decision to resume deportations to Haiti, and that the government publicly engage with the Haitian-American community before instituting policy changes that will dramatically affect community members.

The petition relies on information gathered from interviews by the Loyola Law Clinic & Center for Social Justice and Florida Immigrant Advocacy Center with Haitians detained in Louisiana. It also includes declarations from Michelle Karshan, the Director of Alternative Chance, and two doctors with extensive practice in Haiti, Dr. John May and Dr. Arthur Fournier. Together, these declarations paint a distressing picture of the disastrous consequences of these planned deportations.

Romy Lerner, Supervising Attorney at the Florida Immigrant Advocacy Center said, "We are deeply concerned that this policy is tearing apart the Haitian community. Our petition alleges that the United States has violated the human rights of the Haitians who are at risk of imminent deportations by separating them from their families without considering their ties to the United States or the welfare of their U.S. citizen children. In Miami, the community is terrified of what is about to happen."

"While the U.S. has often historically shirked its human rights obligations toward Haitian migrants, we hope our government will come to its senses and halt the planned deportations of the individuals whose stories are represented in this petition," said Rebecca Sharpless, Director of the Immigration Clinic at the University of Miami School of Law.

To read the request for precautionary measures, go to http://ccrjustice.org/ourcases/current-cases/iachr-haitian-removals.

About Florida Immigrant Advocacy Center

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Sent: Thursday, January 20, 2011 4:37 PM
To: Susana Barciela
Subject: FIAC & CCR News Release: Deportations to a Death Trap

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center for constitutional rights

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Cheryl Little, FIAC (305) 573-1106 x 1001, (305) 905-2204 clittle@fiacfla.org
Susana Barciela, FIAC (786) 454-8561, (305) 301-9762 sbarciela@fiacfla.org
Alison Roh Park, CCR (212) 614-6480, apark@ccrjustice.org

January 20, 2011

Deportations to a Death Trap

FIND US ON

(Miami, Jan. 20, 2011) - The United States has resumed deportations to Haiti, though deportees will face dire conditions that easily lead to severe illness if not death. Adding insult to injury, included among those deported by Immigration and Customs Enforcement (ICE) was Roland Joseph, one of five Haitians included in a petition to the Inter-American Commission on Human Rights asking the United States to stop these deportations.

> "Sending deportees to Haiti is an outrage. The United States has to know they're sending Haitians to a death trap," said **Cheryl Little, Florida Immigrant Advocacy Center Executive Director**. "Why is it so urgent for the U.S. to deport Haitians when Haiti remains in ruin? It makes no sense for either country."

In December, ICE detained more than 300 Haitians. Many were then transferred to three remote jails in Louisiana - far from their families, attorneys and supporters. Most had served their criminal sentences and, prior to this round-up, had been released from ICE detention. Some have serious medical conditions. Most have U.S. relatives who are legal permanent residents and U.S. citizens who will be hurt by their loss.

The routine practice of the Haitian government is to jail deportees with criminal histories under conditions widely documented as atrocious and inhumane. Prisoners are not fed or provided medical care. Whether or not they have served a criminal sentence, no Haitian should be sent to a cholera-infested jail where they risk death. For its part, Haiti does not need United States to send it more people to feed and shelter.

> "The Obama administration has commenced deportations of Haitian nationals who were living and working in the U.S. with families and communities to a country in the midst of a cholera epidemic," said **Sunita Patel, Staff Attorney with the Center for Constitutional**

Rights. "Since 2006, Haiti has detained people like the petitioners in overcrowded police holding cells without toilets, sinks or access to safe drinking water -- the U.S. government is actively putting more people at risk of death."

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REQUEST FOR PRECAUTIONARY MEASURES BEFORE THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

On behalf of: Gary Resil, Harry Mocombe, Roland Joseph, Evel Camelien, Pierre Louis *and* Other Similarly Situated Haitian Nationals Subject to Immediate Deportation by the United States

Against: the United States of America

Filed on Jan. 6, 2011 by Advocates of the Petitioners: University of Miami Human Rights Clinic, University of Miami Immigration Clinic, The Florida Immigrant Advocacy Center, Alternative Chance, The Center for Constitutional Rights, and Loyola Law Clinic & Center for Social Justice

Overview: Background and Historical, Legal, and Political Context

After the devastating January 12, 2010 earthquake, the United States government stayed deportations to Haiti on humanitarian grounds. However, just before the one-year anniversary of the earthquake, the United States Immigration and Customs Enforcement (ICE) announced it was lifting the stay and resuming deportations, while releasing no other public information about the planned removals. Resuming deportations at this time would result in serious human rights violations. Haiti is still reeling from the aftermath of the earthquake and is now additionally facing a massive cholera epidemic, political unrest, and rampant street violence. If history is any guide, the Petitioners will likely be detained in Haitian police station holding cells in unsanitary, overcrowded conditions where cholera and other diseases run rampant. Additionally, the Haitian government does not generally provide food or medical care; thus the Petitioners need to rely on relatives, if available, for basic needs. For many deportees, this situation is tantamount to a death sentence.

The Five Named Petitioners, Their Families, and the Larger Group They Represent

- **Gary Resil** – He is a 61-year-old, legal permanent resident of the U.S. since 1967, who has five U.S. citizen children of which he is the primary caretaker. He suffers from diabetes and other illnesses. His removal order was based on theft and racketeering offenses related to his business. He has no family in Haiti.
- **Harry Mocombe** – He is a 30-year-old, legal permanent resident since 1999, who has a U.S. citizen six-year-old son who suffers from a rare leukodystrophy disease, which has no cure. His removal order concerns convictions for burglary of an unoccupied dwelling and an offense involving theft. He lost his last remaining relatives in Haiti in the earthquake.
- **Roland Joseph** – He is a 43-year-old, legal permanent resident since 1999. He is the single father of four children and has two grandchildren, all of whom are legal permanent residents or U.S. citizens. His removal order is based on two counts of drug possession with the intent to sell, for which he completed a six-month jail sentence. He has no family in Haiti.
- **Evel Camelien** – He is a 53-year-old who came to the U.S. by boat in 1980. He has four children: three U.S. citizens and one legal permanent resident. He supports his young children, holds a steady job, and owns a house. His removal order is based on one drug conviction. His three other children in Haiti, his mother, his father, and sister-in-law all perished in the earthquake.
- **Pierre Louis** – He is a 27-year-old who has been a legal permanent resident since 2001. He is the sole support of his U.S. citizen son and legal permanent resident father. He suffers from schizophrenia and needs specific medical treatment. His removal order is based on a conviction for falsely claiming to be a U.S. citizen, when he tried to register to vote. His only relative in Haiti died in the earthquake.
- **Unnamed Petitioners** – These include men and women, individuals with acute and chronic illnesses, elderly, and former asylum seekers. The majority have lived as legal permanent residents for many years and possess extensive family, economic, and community ties to the United States.

Petitioners Face Imminent and Irreparable Harm as a Result of their Deportations

Petitioners request *immediate* intervention of the Commission to order precautionary measures to stop deportations to Haiti. The standard for such measures is irreparable harm.

- *Right to Life; Security of Person; and Freedom from Cruel, Infamous or Unusual Punishment*
 - The deportation of the Petitioners to Haiti, where they will be placed in cholera-infested police station holding cells, exposes them to foreseeable risk of death. The extreme hardship of these conditions is contrary to the inherent dignity of human person and amounts to a death sentence. This is a violation of Articles I and XXVI of the American Declaration on the Rights and Duties of Man (American Declaration).
- *Right to family life; Special protections for children*
 - Taken together, Articles V, VI, "prohibit arbitrary or illegal interference with family life"[1] by the state. Additionally, the state must take "the best interests of the minor child … into consideration in a parent's removal proceeding."[2] Petitioners and their families will be negatively impacted by deportation. In many cases primary breadwinners will lose their ability to financially provide for their families and communication will be compromised. The prospect of being torn apart by the deportations has created a sense of panic for the Petitioners and their families. Here, the removal violates the rights of the Petitioners and their families under Articles V, VI, and VII of the American Declaration.
- *Rights to fair trial and due process*
 - The failure of the U.S. government to provide Petitioners with the opportunity to present humanitarian defenses to deportation or to provide them with an opportunity to have their due process rights meaningfully considered prior to deportation violates their rights to due process and fair trial under Articles XVII and XXVI of the American Declaration.

Relief Requested

- Continue the stay of deportations to prevent irreparable harm and release the petitioners.
- Grant "deferred action" status to all people facing removal.
- Publicly release information concerning the decision to lift the stay.
- Publicly engage with the Haitian-American community during this continuing crisis.

Post-Filing Updates

January 14, 2011: The IACHR requested the following information from the U.S. government:

1. Whether the United States has received any assurances from the Haitian State regarding medical care, food and clean drinking water in the place of detention to which deportees could be sent;
2. The status of the deportation proceedings with respect to the named petitioners; and
3. If there is a final resolution and a date set for the deportation of the proposed beneficiaries.

January 15, 2011: Deportations commenced, including that of Roland Joseph and 26 other Haitian nationals. Roland Joseph's whereabouts are still unknown. No information has been given as to where the deportees were taken in Haiti or whether there was an agreement between the Haitian and American governments regarding their processing and treatment. **On approximately Jan. 29, Wildrick Guerrier, one of the (unnamed) Petitioners died after being detained in a police station holding facility, after having presented cholera-like symptoms of vomiting, profuse diarrhea, and extreme weakness.**

January 24, 2011: The Petitioners' advocates requested a hearing during the Commission's late March period of sessions due to the serious and urgent nature of the situation. Petitioners will be notified in late February as to whether the hearing is granted.

Media and Advocacy Coverage

- http://www.nytimes.com/2010/12/20/nyregion/20haitians.html?ref=juliapreston
- http://www.npr.org/2011/01/13/132882265/U-S-To-Resume-Deporting-Haitians-With-Criminal-Records
- http://www.miamiherald.com/2011/01/20/v-fullstory/2025483/acquitted-haitian-in-liberty-city.htmlhttp://www.nytimes.com/2010/12/20/nyregion/20haitians.htmll
- http://www.miamiherald.com/2011/02/01/2044410/haitian-deported-by-us-dies-in.html
- http://ccrjustice.org/files/IACHR%20Haitian%20Deportations%20FINAL%20Sign-on%20Ltr.pdf
- http://www.aclu.org/human-rights-immigrants-rights/us-resumes-deportations-haiti
- http://campaign.r20.constantcontact.com

[1] Inter-Am. C.H.R., Report on the Situation of Human Rights of Asylum Seekers within the Canadian Refugee Determination System, OEA/Ser.L/V/II.106, ¶162, (2000); See also *Wayne Smith & Hugo Armendariz, et al. v. U.S.*, Case 12.562, Inter-Am. C.H.R., Report No. 81/10, ¶ 48. (July 12, 2010).

[2] *Wayne Smith & Hugo Armendariz, et al. v. U.S.*, Case 12.562, Inter-Amer. C.H.R., Report No. 80/10, ¶ 56. (July 12, 2010).

Susana Barciela

From: Florida Immigrant Advocacy Center - FIAC [kdoble@fiacfla.org]
Sent: Monday, January 31, 2011 4:10 PM
To: Susana Barciela
Subject: Death By Deportation - Florida Immigrant Advocacy Center News Release

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NEWS RELEASE

FIAC
FLORIDA IMMIGRANT ADVOCACY CENTER

Contacts:
Cheryl Little, FIAC
(305) 573-1106 x 1001, (305) 905-2204,
clittle@fiacfla.org
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(212)260-5000

January 31, 2011

Death By Deportation

FIND US ON

(Miami, Jan. 31, 2011) - A deported man has died following his detention in a Haitian jail. Wildrick Guerrier, 34, was among the 27 Haitians deported on Jan. 20 by Immigration and Customs Enforcement (ICE) in the midst of the country's massive cholera epidemic.

While in jail in Haiti, Guerrier suffered from cholera-like symptoms, including extreme vomiting and uncontrollable diarrhea. He died shortly thereafter. Advocates in Haiti and detainee relatives also have informed us that at least one other detainee is suffering similar symptoms.

> **Claudine Magloire, Guerrier's fiancé and U.S. permanent resident, is outraged**. "The U.S. government has caused my fiancé to die," she said. The deportations to Haiti need to stop."

Guerrier came to the United States as a teenager in 1993 and was a lawful permanent resident. He had been living with his mother, helped raise two younger brothers, and was a father figure to his fiancé's son. He also worked at his car detailing business. Guerrier was completing a criminal sentence of 18 months when transferred to ICE detention. An immigration judge had ordered him deported on Nov. 9, 2010.

He and the other deportees were jailed upon arrival in Haiti under a longstanding policy of the Haitian government to detain deportees with U.S. criminal records. Haiti's jails are notorious for what one U.S. Court of Appeals described as "slave-ship" conditions. These were the first U.S. deportations to Haiti since the catastrophic earthquake of January 2010. Advocates and community groups have protested that it remains too dangerous to send anyone to Haiti given its cholera epidemic, civil unrest, and lack of infrastructure.

In a meeting last week with Department of Homeland Security officials in Washington, D.C., last Friday, **Cheryl Little, Executive Director of the Florida Immigrant Advocacy Center (FIAC),** and other advocates stressed grave concern that Haitian deportees would face death upon their return.

> "This is death by deportation," **Little** said. "To continue sending deportees to Haiti only invites more deaths and suffering. A criminal record should not be a death sentence for Haitians. Sadly, Guerrier's family now mourns his loss."

"Our worst nightmare has come to pass," said **Rebecca Sharpless, Professor at the University of Miami School of Law and Director of the Immigration Clinic.** "Wildrick Guerrier has paid the ultimate price for our country's unconscionable policy. We can only hope that the White House will now come to its senses and halt the deportations."

On January 6, rights groups filed an emergency petition with the Inter-American Commission of Human Rights (IACHR) to halt the deportations of hundreds of Haitian nationals by U.S. immigration authorities.

The United States has not yet responded to the emergency petition, despite being ordered to by the IACHR. The petition was submitted by the University of Miami School of Law, Human Rights and Immigration Clinics; the Florida Immigrant Advocacy Center; the Center for Constitutional Rights, Alternative Chance, and the Loyola Law Clinic and Center for Social Justice.

To read the emergency petition, go to:
http://ccrjustice.org/ourcases/current-cases/iachr-haitian-removals

About Florida Immigrant Advocacy Center

Florida Immigrant Advocacy Center (FIAC) has been fighting for the American dream since its founding in 1996. One of the nation's largest non-profit immigration law firms, FIAC represents vulnerable immigrants at no charge. This direct service work informs its broader policy work. FIAC influences national policy; successfully litigates or otherwise challenges patterns of abuse; and educates the public about the impact immigration laws and directives have on our communities. FIAC is dedicated to protecting and promoting the basic rights of immigrants.

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FIAC
FLORIDA IMMIGRANT ADVOCACY CENTER

NEWS RELEASE

For Immediate Release
Feb. 1, 2002

Contacts:
Cheryl Little: 305-573-1106 x1001, 305-905-2204, clittle@fiacfla.org
Susana Barciela: 305-573-1106 x1710, 305-301-9762, sbarciela@fiacfla.org

Haitian Deportee Death -- News Conference

Who: FIAC, UM Law School, relatives of Haitian deportees, including the fiancé of Wildrick Guerrier, who died after being detained in a Haitian
When: Wednesday, Feb. 2 at 11 a.m.
Where: FIAC, 3000 Biscayne Blvd., Miami, FL 33137, 1st floor conference room
Why: Haitians with criminal records should not be sentenced to death by deportation

(Miami, Feb. 1, 2011) – In the aftermath of Haitian deportee Wildrick Guerrier's death, The Florida Immigrant Advocacy Center (FIAC) and University of Miami Law School Immigrant and Human Rights Clinics have redoubled efforts to stop deportations to Haiti. We are collaborating with other advocates in the United States and Haiti.

On January 20, Immigration and Customs Enforcement (ICE) resumed deportations of Haitians with criminal records despite the country's massive cholera epidemic and other dismal conditions. These were the first deportations since the catastrophic January 2010 earthquake.

Tomorrow's news conference will feature Claudine Magloire, Guerrier's fiancé and U.S. permanent resident, who is outraged at his death as well as other relatives of Haitian deportees. The U.S. governments should not sentence Haitians deportees to death by deportation.

About Florida Immigrant Advocacy Center

Florida Immigrant Advocacy Center (FIAC) is one of the nation's largest non-profit immigration law firms. Since its founding in 1996, FIAC has closed more than 65,000 cases. This direct service work informs its broader policy work, positioning FIAC as a powerful national advocate for immigrants' rights and a leader in the immigration field. FIAC influences national policy; successfully litigates or otherwise challenges patterns of abuse; and takes a leading role in educating the public about the impact that immigration laws and directives have on our communities. FIAC is dedicated to protecting and promoting the basic rights of immigrants



CONTACT: Jen Nessel, CCR 212.614.6449, jnessel@ccrjustice.org, @theCCR; Shonna Carter, Riptide Communications, 212.260.5000; Elizabeth Amore, University of Miami (305) 284-6266, eamore@miami.edu

International Human Rights Commission Summons U.S. to Stop Deportations to Haiti Following First Deportee Death

Rights Groups Demand U.S. Comply, Calling Earthquake, Cholera and Violence a Death Sentence After Rare Inter-American Commission Action

February 4, 2011, Miami, FL and Washington, D.C. – Today, in response to an emergency petition filed on January 6, 2011 by six rights groups, the Inter-American Commission on Human Rights (IACHR) took a rare step and urged the U.S. government to cease deportations to Haiti immediately for persons with serious illnesses or U.S. family ties. The action follows the first reported death of a person deported by the U.S. since removals resumed on January 20, 2011. In its decision, the IACHR expressed concern that "detention centers in Haiti are overcrowded, and the lack of drinking water and adequate sanitation or toilets could facilitate the transmission of cholera, tuberculosis, and other diseases."

The deceased, Wildrick Guerrier, 34, exhibited cholera-like symptoms but is believed to have received no medical treatment while in a Haitian police station cell in the midst of a cholera epidemic. A second deported person was reportedly exhibiting cholera-like symptoms and released without medical attention.

Michelle Karshan, Executive Director of Alternative Chance, a re-entry program for criminal deportees in Haiti, responded: "The IACHR has rightly and courageously come through on the side of life, family and human rights. By resuming the suspension of deportations to Haiti for now, the U.S. can truly demonstrate its commitment to aiding Haiti through this difficult period towards real reconstruction.

"We implore the U.S. Government to follow the IACHR's instructions," said **Sunita Patel, Center for Constitutional Rights Staff Attorney.** "Stop the deportations to stop the deaths. The Obama administration should live up to its promise to abide by human rights obligations and protect the right

to life of Haitians in the United States."

The emergency petition for precautionary measures, submitted by the **University of Miami School of Law Human Rights and Immigration Clinics, the Florida Immigrant Advocacy Center (FIAC), the Center for Constitutional Rights (CCR), Alternative Chance and the Loyola Law Clinic and Center for Social Justice,** argued that deporting people at this moment to Haiti, which is still reeling from the devastating January 2010 earthquake and burdened with a massive cholera epidemic, political unrest and street violence, will result in serious human rights violations, including deprivations of the rights to life, family and due process, and freedom from cruel or unusual punishment.

Deportations from the U.S. to Haiti had been stayed on humanitarian grounds since the January 12, 2010 earthquake devastated Haiti. Advocates and community members were shocked when, on December 9, 2010, the U.S. Immigration and Customs Enforcement (ICE) unexpectedly announced that it was lifting the ban on deportations to Haiti for individuals with criminal records and would resume deportations in January 2011, just one year after the earthquake. On January 20, 2011, the U.S. resumed deportations to Haiti, deporting an estimated 27 people of Haitian origin, several of whom had not set foot in Haiti since they were young children.

"Our petition warned that Haitians would be at imminent risk of death if deported to Haiti," said **Romy Lerner, FIAC Supervising Attorney**. "Now our worst fears have been realized. Our government must stop all deportations to Haiti at this time."

"The U.S. Government has blood on its hands," said **Rebecca Sharpless, Director of the Immigration Clinic at the University of Miami School of Law**. "While detained in Louisiana, Wildrick Guerrier expressed grave concerns that he had no family in Haiti, that he had not been to Haiti for a very long time, afraid of what would happen to him in Haiti and of the cholera outbreak. He was right to be terrified."

While the IACHR's decision on the emergency petition is limited to deportations of persons of Haitian origin who are seriously ill or who have family members in the U.S., advocates are hopeful that the Commission will extend the scope of its decision in the future.

"We will now pursue this as a case on the merits – alleging permanent harm – in light of the limited ruling of the Commission and in light of the long-term harm that has befallen these 27 individuals and their families and others in the pipeline," said **Caroline Bettinger-Lopez, Director of the Human Rights Clinic at University of Miami School of Law**. "We have requested a hearing before the Commission during its March period of sessions. There, representatives from the U.S. government will need to look the Commissioners in the eye and explain their government's past and future actions."

To read the request for precautionary measures, visit http://ccrjustice.org/ourcases/current-cases/iachr-haitian-removals. To read the IACHR's decision, visit http://www.cidh.oas.org/Comunicados/English/2011/6-11eng.htm.

-30-

URGENT ACTION NEEDED

Human Services Coalition HSC → Catalyst Miami | FIAC Florida Immigrant Advocacy Center | Alternative Chance Chans Altenativ | MIAMILAW Clinics | Center for Constitutional Rights

Take Action: Tell ICE to Halt all Deportations to Haiti

Opportunity for ACTion

On Monday, ICE Immigration and Customs Enforcement (ICE) announced it would "like your input on its proposed Policy for Resumed Removals to Haiti. This is not a final policy and is disseminated solely to collect feedback." ICE has given people until **this Friday, March 18** to email them all comments.

We object to the decision to deport Haitians. ICE's policy has already led to one death and the deportation of 27 Haitians into a humanitarian crisis. We also object to this incredibly short and non-transparent comment process that is occurring after the policy has already been implemented and after much harm has already been done.

Please take the following steps **by this Friday**:

1) Review the policy here http://www.ice.gov/news/library/policies/

2) Sign on to a **response letter** (view letter here) by emailing your name or organization's name to **Rose Dominguez**, RDominguez@law.miami.edu by **3:30 p.m., Friday**, March 18.

3) Email ICE your personal comments or a separate letter from your organization at haitipolicycomments@dhs.gov. **Click here for Talking Points.**

Attached please find a new Factsheet by University of Miami Immigration and Human Rights Clinics, the Center for Constitutional Rights, Florida Immigration Advocacy Center and Alternative Chance that details what the 27 Haitian detainees experienced once they arrived in Haiti. No one else should be subjected to this horrific experience. Thanks for taking action now.

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Opportunity for ACTion

Dear Friends:



We know how much you care about the fight to Save Service in America - and how much you have done already to help us in this effort.

By Friday, we need you to take two minutes and help us MAKE THE CALL to our Senators and ask them to help us save service. We must raise our voices, jam the phone lines, and make sure they know how much this issue matters to us:

Here's what we need you to do right now:

1. MAKE THE CALL: 1-855-US-SERVE. This line will connect you directly to your US Senator by simply entering your zip code, so it's the easiest way to reach out. You can also visit our website to get suggested talking points.

2. TELL YOUR FRIENDS. Update your Facebook status, tweet about the experience, upload a video on our YouTube page, whatever you feel moved to do... but please tell your friends you made the call, and ask them to do the same!

Martin Luther King, Jr. said "everyone can be great, because everyone can serve." We want to serve, we want this country to be great - and we want Congress to know how much we care about AmeriCorps and the Corporation for National and Community Service.

You are a powerful voice for service--please MAKE THE CALL today!

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March 14, 2011

President Barack Obama
Vice President Joseph Biden
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Secretary Janet Napolitano
U.S. Department of Homeland Security
Washington, DC 20528
haitipolicycomments@dhs.gov

Secretary Hillary Rodham Clinton
U.S. Department of State
2201 C Street NW
Washington, D.C. 20520

Re: Comments on ICE's Proposed Policy for Resumed Removals to Haiti

Dear President Obama, Vice President Biden, Secretary Napolitano, and Secretary Clinton:

We write to comment on the Policy for Resumed Removals to Haiti posted on the website of Immigration and Customs Enforcement (ICE) on March 7, 2011. Our comments address serious concerns with both the substance of the decision to resume deportations to Haiti as well as the lack of transparency surrounding this decision. As we underscore below, the United States' decision to resume deportations to Haiti at this time has already resulted in grave human rights violations. We strongly urge our country to stop deportations, respect its human rights obligations, and discard this senseless removal policy.

The January 12, 2010 massive earthquake in Port-au-Prince, Haiti left nearly 300,000 Haitians dead and over 1.2 million more displaced and homeless. These people and countless others in Haiti lack basic sanitation, adequate food, potable water, lighting, and basic security. One year after the earthquake, the serious humanitarian crisis in Haiti not only persists but has worsened due to the cholera epidemic, political violence, and social unrest. The situation is particularly bad in Haitian detention centers, where deportees are routinely jailed and where cholera has already claimed at least 48 lives.

Notwithstanding the epic humanitarian crisis in Haiti, ICE has begun to deport people to Haiti. On January 20, 2011, the first plane was sent back to Haiti with tragic results.

Wildrick Guerrier, a 34-year-old man deported on the first plane, died shortly after being detained in a Haitian jail and being exposed to crowded and unsanitary conditions. He, along with the 26 other deportees, was detained in life-threatening conditions upon arrival in Haiti pursuant to the Haitian government's longstanding policy of detaining deportees from the U.S. for indefinite periods of time in unsanitary and abusive conditions in which they are deprived of food, water, medical care, and medicine. This policy is well-known to the United States, having been the subject of numerous State Department reports and congressional hearings.

The Inter-American Commission on Human Rights (IACHR) has already signaled its serious concern with the U.S. decision to resume deportations. On February 4, 2011, the IACHR granted a request filed and supported by many of the undersigned organizations for precautionary measures, and urged the U.S. government to cease deportations to Haiti immediately for persons with serious illnesses or U.S. family ties. The IACHR specifically requested that the U.S. not deport the five named petitioners, until: 1) Haiti is able to guarantee that detention conditions and access to medical care for persons in custody comply with applicable minimum standards, and 2) the U.S. is able to put procedures in place to decide upon and review the deportation of the five beneficiaries and adequately take into account their right to family life and their family ties in the U.S. The Commission has granted the petitioners a working meeting with the U.S. government on March 26 at the headquarters of the Organization of American States in Washington, D.C., to further address this serious matter.

Deportations to Haiti Are Unsafe and Inhumane

Deportations to Haiti must stop because they pose an unacceptable risk of death and disease and violate our country's human rights obligations. It is ironic that on December 9, 2010, the same day ICE lifted its ban on deportations, the U.S. State Department issued a travel warning discouraging any nonessential travel to Haiti on account of the situation of "continued high crime, the cholera outbreak, frequent disturbances in Port-au-Prince and in provincial cities, and limited police protection and access to medical care."

In the past month, a fact-finding mission to Haiti, during which 10 of the 27 deportees were interviewed, confirms that the inhumane treatment of deportees to Haiti that was common practice before the earthquake has continued, and in fact, worsened since the earthquake.[1] The deportees described a horrific deportation process, culminating in the detention of 17 individuals within a small (approximately 3x15 feet) Haitian jail holding cell. Deportees described the squalid jail as unbearable, and vividly recalled dirt, feces, vomit and trash-layered floors, blood-stained walls, and an infestation of mosquitoes. They were traumatized by witnessing severe abuse of other inmates by the police officers, including an officer clubbing an individual with the butt a rifle for a prolonged period of time, including in the eye, to the point that the individual vomited and defecated on himself. Deportees described how their pleas for help and medical assistance fell on

[1] Interviews by Caroline Bettinger-Lopez and Marleine Bastien with Haitian deportees, Haiti Fact-Finding Mission (Feb. 12, 2011).

deaf ears, and were sometimes met with cavalier comments by police guards such as "you are here to suffer/die." Moreover, when representatives of the Red Cross and Alternative Chance, a local assistance organization for deportees, visited the facility, the police seized the supplies they wished to distribute and failed to pass flyers on cholera prevention along to deportees.

Deportees suffered in these conditions nearly two weeks. These unsafe and inhumane conditions were coupled with a complete lack of access to clean water, food, hygiene products or medical care – despite the risk of cholera and other diseases.[2] Deportees were entirely dependent on family members to bring them food, water, and hygienic items.[3] At least five deportees fell seriously ill, and one, Wildrick Guerrier, died two days after being released.

Medical doctors have condemned the deportations to Haiti. Dr. Arthur M. Fournier, Professor and Vice Chairman Family Medicine and Community Health and Associate Dean for Community Health Affairs at the University of Miami, Miller School of Medicine, has warned that deporting people to Haiti at this time "constitutes, in my opinion, cruel and inhuman treatment of the deportees . . . expos[ing] [them] to serious and life-threatening conditions in the jail cells and holding facilities."[4]

DHS Should Rescind this Policy and Permit a Transparent Process

DHS's decision to commence deportations to Haiti has been clouded in secrecy. This policy was not publicly announced until Monday, March 7, 2011. It was communicated verbally in December 2010 only to a small group of organizations. The first plane to Haiti departed on January 20, 2011 with no public announcement and no notice to the deportees or their families. Only on Monday, more than three months after the policy was first mentioned off the record and more than two months after deportations began, did DHS issue a public policy statement. In light of this timeline, and the life-and-death consequences of this policy, permitting only four days for public comment, or eleven days under the short extension that was communicated to advocates on Friday, suggests that DHS is not pursuing this process in good faith.

The lack of transparency is also apparent from the inconsistencies in official statements regarding the Haiti policy. The March 7 policy statement alleges ICE to be working "in coordination with the Department of State and the Government of Haiti, to resume

[2] Office of the U.S. Foreign Disaster Assistance, U.S. Agency for Int'l Dev., Fact Sheet #20, Fiscal Year (FY) 2011 (Feb. 18, 2011) (stating that the cholera epidemic has infected more than 231,000 people and claimed approximately 4,500 lives).

[3] *Supra* note 1 (family donations of food, water and hygiene products were often seized by Haitian police officials).

[4] Decl. of Dr. Arthur Michael Fournier, M.D., in support of Petitioner's Request for Precautionary Measures to the Inter-American Commission on Human Rights. H.R., No. MC-5-11, ¶ 33 (Jan. 5, 2011).

removals in as safe, humane, and minimally disruptive a manner as possible."[5] By the United States own admission, however, this is not the case.[6] In a recent response to the Inter-American Commission, the Department of State stated: "The United States has *not* received assurances from the Haitian Government regarding the medical care or provisions that the proposed beneficiaries will be able to obtain upon their return (emphasis added)."[7]

Last week, when advocates raised concerns during a conference call/meeting with civil society advocates and the U.S. State Department concerning the UN Universal Periodic Review (UPR) process, the State Department representative simply responded: "we are in communication with the Inter-American Commission on Human Rights about this matter." But when pressed about whether the United States would communicate with civil society and the Haitian-American community, officials responded without explanation: "we'll share information with the community in due course." The lack of transparency is distressing and underscores the importance of a cessation of deportations until an open dialogue is possible.

ICE Can Stop Inhumane Deportations and Keep the Public Safe

ICE can both honor our nation's human rights obligations by ceasing deportations and keep the public safe. It is simply untrue that ICE must choose between these objectives. Many of the people facing deportation had been leading law-abiding lives in their communities as lawful permanent residents before they were unexpectedly rounded up and detained. Moreover, ICE has robust supervision and electronic monitoring programs that it routinely uses to monitor noncitizens with criminal backgrounds who cannot be deported—including people from Cuba and other countries to which deportation is not possible and people who are stateless.

The Haiti deportation policy is expansive, despite ICE's suggestion to the contrary. The policy appears to apply to *any* Haitian who is not eligible for temporary protected status—a remedy denied anyone who has more than two-misdemeanor record. Under ICE's policy, a person with three (3) driving-related criminal infractions, such as driving without a license, faces deportation to Haiti.

ICE's description of the people they are deporting to Haiti is inaccurate and misleading. The Haitian men and women slated for deportation have already served any criminal sentences imposed on them. Many had been living in the community and complying

[5] Department of Homeland Security, U.S. Immigration and Customs Enforcement, ICE draft policy, March 7, 2011, available at http://www.ice.gov/news/library/policies/.

[6] U.S. State Department, United States Permanent Representative Organization of American States, Department of State, Response of the United States regarding a request for information by the Inter-American Commission on Human Rights relating to Certain Haitian Nationals. And other similarly situated Haitian nationals subject to immediate deportation by the USA (February 18, 2011).

[7] *Id.*

with ICE supervision orders, and none has had a day in court to determine whether he or she would pose any *current* danger to society. Representatives of organizations signing onto this letter recently traveled to three remote jails in Louisiana to meet with some of the detainees held for deportation. Far from being limited to "violent felons," the people slated for deportation include people with only nonviolent misdemeanor records and nonviolent drug offenses. Many have family members, including young children, who are United States citizens and who rely on them for support.

In any event, ICE's focus on criminal records is a distraction from the real issue. Consistent with our nation's human rights obligations, *no* person—regardless of his or her crime—should be sent back to Haiti in light of the existing life-threatening conditions.

Requested Action

Because deporting anyone to Haiti under current circumstances is inhumane and life-threatening, the undersigned hereby request that DHS:

1. Immediately halt all deportations to Haiti.

2. Based upon humanitarian factors, grant deferred action and/or stays of removal to all Haitians with final orders of removal.

3. Meet with representatives of the undersigned organizations to discuss the March 7, 2011 policy.

4. Immediately halt roundups and detention of Haitian nationals in the United States and release those currently in custody.

5. Extend the comment period for at least one month and simultaneously suspend deportations to permit a true review process.

6. Publicly release information about the basis for the newly announced DHS policy, and explain what assessment was conducted of the circumstances in Haiti prior to the change in policy.

Sincerely,

Caroline Bettinger-López
Beatriz Carta Wagman
Farrah Elchahal
Kenosha Ferrell
Lea Dartevelle-Erhel
Liam McGivern
Margaret Courtney Jordan
Miraisy Rodriguez
Miya Patel
Monika Siwiec
Human Rights Clinic
University of Miami School of Law

Rebecca Sharpless
Farrin Anello
Nneka Utti
Niyala Harrison
Thomas Oglesby
Immigration Clinic
University of Miami School of Law

Sunita Patel
William Quigley
Pamela Spees
Center for Constitutional Rights

Romy Lerner
Cheryl Little
Susana Barciela
Nancy Francillon
Florida Immigrant Advocacy Center

Michelle Karshan
Alternative Chance

Hiroko Kusuda
Loyola Law Clinic & Center for Social Justice

Cc.: The White House and National Security Council
Timothy F. Geithner, Secretary of the Treasury
Robert M. Gates, Secretary of Defense
Thomas Donilon, National Security Advisor
Felicia Escobar, Senior Policy Advisor, Domestic Policy Council
Scott Busby, Director for Human Rights, Office of Multilateral Affairs and Human Rights, National Security Council

Department of Homeland Security
John Morton, Director, U.S. Immigration and Customs Enforcement
Esther Olavarria, Deputy Assistant Secretary for Policy
Cyrena Khoury, Policy Advisor, Office of Civil Rights and Civil Liberties

Department of State
Michael H. Posner, Assistant Secretary of State
Harold Hongju Koh, Legal Adviser
David Sullivan, Attorney-Adviser, Office of the Legal Adviser
Kara McDonald, Deputy Coordinator for Haiti

Organizational Sign-ons

1. ACLU of Florida Racial Justice & Voting Rights Projects
2. African Services Committee
3. American Jewish World Service
4. Amigos Center
5. Asian Law Caucus
6. Capital Area Immigrants' Rights Coalition
7. Catholic Charities Legal Services, Archdiocese of Miami

8. Central American Legal Assistance
9. Environmental Justice Initiative for Haiti
10. Fanm Ayisyen Nan Miyami/Haitian Women of Miami
11. Florida Coastal Immigrant Rights Clinic
12. Georgia Rural Urban Summit
13. Haiti Support Group
14. HIV & AIDS Legal Services Alliance
15. Immigrant and Refugee Rights Project of the Washington Lawyers' Committee for Civil
16. Immigrant Child Advocacy Project at the University of Chicago
17. Immigrant Defense Project
18. Immigration Advocacy Project (Student Organization)
19. Immigration Law Clinic, University of Pittsburgh - School of Law
20. Institute for Justice & Democracy in Haiti
21. IRATE & First Friends
22. Jacksonville Area Legal Aid
23. Judson Memorial Church
24. Los Angeles Chapter, National Lawyers Guild
25. Lutheran Immigration and Refugee Service
26. MAS (Muslim American Society) Immigrant Justice Center
27. Mississippi Immigrants Rights Alliance (MIRA)
28. Mobilize For Haiti
29. National Advocacy Center of the Sisters of the Good Shepherd
30. National Immigration Forum
31. National Immigration Project of the National Lawyers Guild
32. National Lawyers Guild Task Force on the Americas
33. National Network for Immigrant and Refugee Rights
34. New Jersey Forum for Human Rights
35. Nicaragua Center for Community Action
36. Northeast Florida Immigrant Alliance
37. Progressive Democrats of America
 Rights and Urban Affairs
38. South Asian Americans Leading Together (SAALT)
39. Southeast Regional Economic Justice Network
40. St Thomas University Human Rights Institute
41. The Detention Watch Network
42. The Immigrant Legal Resource Center
43. The National Lawyers Guild
44. The New Sanctuary Coalition of NYC
45. The Student Organization for Human Rights
46. UC Davis Immigration Law Clinic
47. United Methodist Church, General Board of Church and Society
48. Urban Justice Center
49. Washington Defender Association's Immigration Project
50. Women Watch Afrika, Inc.
51. World Organization for Human Rights USA

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ICE Formalizes Policy to Deport Haitians During Humanitarian Crisis

Groups Denounce Policy as a Death Sentence, Cite Human Rights Violations That Will Result From Deportations

April 6, 2011, New York and Miami – Yesterday, the Immigration and Customs Enforcement (ICE) agency of the United States Department of Homeland Security announced its intent to continue deporting Haitian nationals. In response, the Center for Constitutional Rights, University of Miami School of Law Human Rights Clinic and Immigration Clinic, and Florida Immigrant Advocacy Center issued the following statement:

> ICE's recent decision to resume deportations of Haitian nationals amounts to a death sentence. Resuming deportations at this time is inhumane and incompatible with basic human rights norms. ICE should immediately revoke its policy and take seriously the grave concerns expressed last month by hundreds of people in the U.S. about its decision to resume deportations. We have learned of hunger strikes in Louisiana detention facilities as a result of the policy posting.
>
> In the wake of the January 12, 2010 earthquake that devastated Haiti, ICE halted deportations from the U.S. to Haiti on humanitarian grounds, until "conditions improve." We were shocked when ICE unexpectedly announced in December 2010 that it was lifting the ban on deportations to Haiti for individuals with criminal convictions and began rounding up Haitian community members.
>
> A wide range of immigrant rights and human rights organizations warned that deportation could be a death sentence. Our organizations petitioned the Inter-American Commission on Human Rights to intervene. Yet, the first plane of deportees was sent to Haiti on January 20, 2011. The deportees were held in a facility with no access to clean water or food, with no working toilets and with feces and vomit on the floor. One of these men, Wildrick Guerrier, died less than

two weeks later after exhibiting cholera-like symptoms. His death was a predictable result of the Obama administration's decision to resume deportations to Haiti. A second man was released from jail with similar symptoms without receiving any medical care.

The Obama administration's recent policy posting has made clear it intends to continue this disastrous policy, and new deportations are imminent. This decision ignores the concerns raised by advocates and the Inter-American Commission on Human Rights. Deporting people at this moment to Haiti, which is still reeling from the devastating January 2010 earthquake and is burdened with a massive cholera epidemic and instability will result in serious human rights violations, including deprivations of the rights to life, family, and due process, and freedom from cruel or unusual punishment. In some cases, such as Guerrier's, it will surely be a death sentence.

The humanitarian crisis in Haiti has gotten worse, not better, since the earthquake. Over a million people remain homeless while humanitarian aid mandates are ending and services to those in need are ending. Deportees from the U.S. are routinely jailed in unsanitary detention centers upon arrival without food, clean water, or medical care. The cholera epidemic has resulted in over a quarter of a million known cases in Haiti with 4,717 reported deaths as of March 18, 2011. Even more alarming, a new study by the University of California, San Francisco (UCSF) and Harvard Medical School, published March 16, 2011 in the journal *Lancet,* is predicting that there could be nearly twice the number of previously expected cases of cholera – up to 779,000 – between this March and November 2011 alone. The U.S. government claims it is working with the government of Haiti towards "safe and humane" removals; this is simply not possible given the conditions on the ground, particularly in detention centers where deportees are held.

ICE claims the reason for resuming deportations is public safety. We emphasize that all of these individuals have served their criminal sentences or had such minor convictions they were never sentenced to time in custody. In fact, many of the Haitian nationals subject to the policy have old criminal convictions for non-violent offenses.

We call on the Obama Administration for an immediate halt to all removals to Haiti and the release of all Haitians being held with final orders of removal.

For more information visit CCR's legal case page.

PRESS CONFERENCE

FIAC FLORIDA IMMIGRANT ADVOCACY CENTER MIAMILAW UNIVERSITY OF MIAMI SCHOOL OF LAW Clinics

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center for constitutional rights

April 14th, 2011

PRESS CONFERENCE: Stop Deportations to Haiti!

FIND US ON

What: PRESS CONFERENCE
When: FRIDAY, APRIL 15, 2011 -- 10 AM
Where: IMMIGRATION BUILDING, 8801 N.W. 7TH AVENUE
Who: Haitian LEADERS, HUMAN RIGHTS AND FAITH GROUPS, DETAINEES' FAMILY MEMBERS
Why: Stop Deportations to Haiti!

Despite a national outcry stemming from the January 20, 2011 deportation of 27 detainees to Haiti, which resulted in the death of 34 y.o. Wildrick Guerrier, the Obama Administration recently made a decision to resume deportations to Haiti. Haitian deportees risk a death sentence from cholera due to unhygienic conditions in Haiti's inhumane and overcrowded police station holding cells, were detainees routinely are jailed. The conditions in these jails include severe overcrowding, filth and a lack of clean water or medical care. Wildrick Guerrier became deathly ill in just such a jail cell and, after experiencing extreme diarrhea and vomiting, died on January 29, 2011.

The Obama Administration has yet to provide relief to many of Haiti's earthquake victims who were evacuated to the United States by U.S. Forces after the quake or who came to the United States with tourist or other visas seeking a temporary reprieve. The administration also has been unresponsive despite enormous editorial and bi-partisan congressional support to calls for a Haitian Family Reunification Parole Program similar to the Cuban Family Parole Program .

Regarding the deportations, Caroline Bettinger Lopez, Associate Professor of the Human Rights Clinic at UM School of Law, stated: "The right to life should not be selectively applied depending on one's citizenship status or a prior bad act. The U.S. government has a basic obligation not to deport anyone to death. Our country must live up to its human rights commitments and immediately halt any and all deportations to Haiti".

"Wildrick T.Guerrier's death was enough of a tragedy," said Susana Barciela, Florida Immigrant Advocacy Center's Policy Director. "Resuming deportations to Haiti not only risks more deaths but will burden a Haiti still reeling to find food, jobs and shelter for earthquake survivors." Jean Robert Lafortune added:" Why is the Obama administration continuing the double standard and discrimination of the Bush era? Aren't Haitians deserving human beings?" "A civilized nation does not and should not deport anyone to a possible death sentence from cholera" continued Steve Forester of the Institute for Justice and Democracy in Haiti. Family members of

the detainees will be there to ask the same questions.

***For information**: Please call Marleine Bastien at (305)756-8050 , Carrie Bettinger-Lopez (305) 281-9856, or Beatriz Carta-Wagman (305)776-2248*
Supporting Organizations: FIAC, FANM, HAGC, Alternative Chance, UM Human Rights Clinic, UM Immigration Clinic, American Friends Service Committee, Center for Constitutional Rights, Institute for Justice & Democracy in Haiti, Haiti Solidarity, Jobs With Justice

About Florida Immigrant Advocacy Center

Florida Immigrant Advocacy Center (FIAC) has been fighting for the American dream since its founding in 1996. One of the nation's largest non-profit immigration law firms, FIAC represents vulnerable immigrants at no charge. This direct service work informs its broader policy work. FIAC influences national policy; successfully litigates or otherwise challenges patterns of abuse; and educates the public about the impact immigration laws and directives have on our communities. FIAC is dedicated to protecting and promoting the basic rights of immigrants.

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ICE Begins Second Round of Deportations to Haiti During Humanitarian Crisis

January Deportation Led to Death

April 15, 2011, New York and Miami – Today, the Immigration and Customs Enforcement (ICE) agency of the United States Department of Homeland Security resumed deportations of Haitian nationals. In response, the Center for Constitutional Rights, University of Miami School of Law Human Rights Clinic and Immigration Clinic, FANM/Haitian Women of Miami, Alternative Chance, and Florida Immigrant Advocacy Center issued the following statement:

> This morning, the United States deported a second group of Haitian men to face jail and death in post-earthquake Haiti. In January, a 34-year-old man, Wildrick Guerrier, died only 9 days after being deported to Haiti. Guerrier and 26 other men were jailed without being provided with clean water or food and were held in a cell covered with human feces and vomit. Guerrier and other men fell ill, exhibiting cholera-like symptoms, and were refused medical care.
>
> As acknowledged by the U.S. State Department, conditions have only worsened since the January 2010 earthquake that caused ICE to suspend deportations. Haiti is reeling under a cholera epidemic, social unrest, and unsafe and deteriorating tent camps housing over 1.2 million displaced people. Haiti also continues its practice of jailing deportees with past criminal records under life-threatening conditions.
>
> Yet ICE unexpectedly announced in December 2010 that it was lifting the ban on deportations to Haiti for individuals with past criminal records and began rounding up Haitian community members.

Before the first plane to Haiti left on January 20, a wide range of immigrants' rights and human rights organizations warned that deportation could be a death sentence. On January 6, our organizations petitioned the Inter-American Commission on Human Rights (IACHR) to instruct the United States to halt the deportations. On February 4, the IACHR issued an order urging the United States not to deport the Haitian petitioners to Haiti and expressing serious concern about the deportations separating families and placing people with medical conditions in life-threatening conditions.

The cholera epidemic has resulted in over a quarter of a million known cases in Haiti with 4,717 reported deaths as of March 18, 2011. Even more alarming, a new study by the University of California, San Francisco (UCSF) and Harvard Medical School, published March 16, 2011 in the journal *Lancet,* is predicting that there could be nearly twice the number of previously expected cases of cholera – up to 779,000 – between this March and November 2011 alone. The U.S. government claims it is working with the government of Haiti towards "safe and humane" removals. This is simply not possible given the conditions on the ground, particularly in the jails where deportees are held.

The United States has an obligation not to deport anyone to death. Our country must live up to its human rights commitments and immediately halt any and all deportations to Haiti.

We call on the Obama Administration for an immediate halt to all removals to Haiti and the release of all Haitians being held with final orders of removal.

For more information visit www.StopHaitiDeportations.org and CCR's legal case page, http://ccrjustice.org/ourcases/current-cases/iachr-haitian-removals.

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FIAC FLORIDA IMMIGRANT ADVOCACY CENTER

A not-for-profit legal services organization founded in 1996 to protect and promote the basic human rights of immigrants

Most Recent Archives Publications

EMERGENCY PETITION: to halt the deportations of hundreds of Haitian nationals by U.S. immigration authorities.
Monday Feb 02nd, 2011 | 2:00PM EST

The United States has not yet responded to the emergency petition, despite being ordered to by the IACHR. The petition was submitted by the University of Miami School of Law, Human Rights and Immigration Clinics; the Florida Immigrant Advocacy Center; the Center for Constitutional Rights, Alternative Chance, and the Loyola Law Clinic and Center for Social Justice.

Click here to read Petition SHARE

For more information refer to FIAC's latest Report:
After the Earthquake - Haitian Children Seeking Safety in the United States.

News Release: Death by Deportation.
Monday Feb 01st, 2011 | 9:00AM EST

A deported man has died following his detention in a Haitian jail. Wildrick Guerrier, 34, was among the 27 Haitians deported on Jan. 20 by Immigration and Customs Enforcement (ICE) in the midst of the country's massive cholera epidemic.

Click here to read News Release SHARE

News Release: Deportations to a Death Trap.
Monday 24th, 2011 | 7:00AM EST

"Sending deportees to Haiti is an outrage. The United States has to know they're sending Haitians to a death trap," said Cheryl Little, Florida Immigrant Advocacy Center Executive Director.

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Radio Clip from PRI's The World from BBC. US resumes deportation of Haitians.
Monday 24th, 2011 | 7:00AM EST

About one hundred Haitians have been transported from South Florida to Louisiana. The move is considered one of the last steps before people are put on a plane back to Haiti, where they will likely be jailed.

Click here to read article/download MP3 SHARE

US deports first Haitians since earthquake.
Friday 21st, 2011 | 8:00PM EST

Cheryl Little, executive director of the Florida Immigrant Advocacy Center, a nonprofit law firm, said the Haitian deportees were being sent back to a "death trap."

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Connecting Women: Commission Met On Combating Human Trafficking And Forced Labor.
January 20th, 2011 | 11:00AM EST

QUICK LINKS

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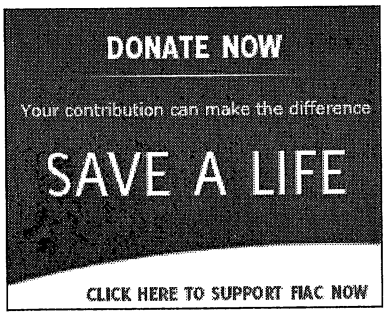
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The U.S. Equal Employment Opportunity Commission (EEOC) held a public meeting on Wednesday, January 9th at agency headquarters. Ana Vallejo, FIAC's Supervising Attoryney was among the panelists.

Click here to read agenda and article SHARE

After the Earthquake - Haitian Children Seeking Safety in the United States.
January 12th, 2011 | 2:00PM EST

Countless vulnerable Haitian children are at risk in the United States in the earthquake's aftermath. Some were evacuated after suffering life-threatening injuries in the quake. Others have lived here for years, separated from their parents. FIAC is releasing a new report today at 2:00PM EST

Click here to read Report SHARE

Local Haitian leaders uneasy as immigration officials prepare to resume deporting illegals. -NaplesNews.com cites Susana Barciela and Maureen Kelleher.
December 21th, 2010 | 11:30AM EST

"It's unconscionable to resume deportation to Haiti at this time, when conditions are worse than they were right in the aftermath of the earthquake."

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Local Haitian leaders uneasy as immigration officials prepare to resume deporting illegals. -NaplesNews.com cites Susana Barciela and Maureen Kelleher.
December 21th, 2010 | 11:30AM EST

"It's unconscionable to resume deportation to Haiti at this time, when conditions are worse than they were right in the aftermath of the earthquake."

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Protests Surround Planned Deportations To Haiti. -CBS News cites Cheryl Little, Executive Director and Susana Barciela, Policy Director from FIAC.
December 21th, 2010 | 11:30AM EST

"If they get deported, the conditions in Haiti are such that it could amount to a death sentence," Barciela said.

Click here to read more SHARE

Deportations loom as deadline for Haitians nears. -The Miami Herald cites Cheryl Little, Executive Director of FIAC.
December 20th, 2010 | 6:00PM EST

"We've got folks who are eligible for temporary protected status who are afraid to come forward and apply now because they think they're going to be detained and deported."

Click here to read more SHARE

The Senate will have a key vote on the DREAM Act tomorrow morning. CALL NOW! Keep the DREAM Act alive.
December 17th, 2010 | 2:00PM EST

Calls to Florida Senator LeMieux are more important than ever.

Click here for contact phone numbers For more information, see FIAC's Report: Unleash the DREAM: End the Colossal Waste of Young Immigrant Talent
SHARE

STOP Haitian Deportations. News Release: Act Now!
December 15th, 2010 | 6:00PM EST

"Removing individuals to Haiti under these circumstances is unconscionable", said FIAC Executive Director Cheryl Little.

Click here to read News Release | Do your part!, to sign petition click below:
Stop Deportations to Haiti SHARE

Dreaming of Reform- NY Times Editorial features FIAC's client Gaby Pacheco.
December 2nd, 2010 | 2:00PM EST

Gaby Pacheco once hugged Joe Arpaio, a sheriff in Arizona, momentarily disarming his anti-immigrant virulence.

Click here to read more | For more information, see FIAC's Report:
Unleash the DREAM: End the Colossal Waste of Young Immigrant Talent
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FIAC DREAM report cited in Human Rights Watch Letter to Senator Reid
November 30th, 2010 | 10:30AM EST

To better safeguard human rights protected under international law, governments making determinations of all those subject to deportation should take into consideration the connections that immigrants establish with their communities. .

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Tell Congress: Pass the DREAM Act
November 19th, 2010 |

Senate Majority Leader Harry Reid has just announced that he will bring the DREAM Act up for a vote after Thanksgiving.

Click here to send e-fax SHARE

Hombre encarcelado injustamente logra residencia. FIAC's Attorney Tal Winer featured.
November 17th, 2010 |

Treinta años después de llegar a la tierra de la libertad, Orlando Boquete logró ser residente, pero su odisea tiene partes muy amargas.

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Imigrantes Pierden Esperanzas De Legalizacion. -Features FIAC Executive Director Cheryl Little
November 9th, 2010 |

Luego de los republicanos ganaran la Camara de Representates la semana pasada, jornaleros indocumentados del sur de la Florida expresaron temor y activistas de immigracion dijeron que se hara mas dificil, si no imposible, la legalizacion de millones de immigrantes ilegales.

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Scott's Promises May Back Him Into A Corner. -CBS4 Features FIAC Executive Director Cheryl Little
November 4th, 2010 |

Rick Scott made lots of promises on the campaign trail this year. Now Florida's governor-elect has a chance to follow through. Many will welcome that, many others will not.

Click here to read more and watch video SHARE

How Immigrants Create More Jobs. *Op-ed by Tyler Cowen
October 30th, 2010 |

In the campaign season now drawing to a close, immigration and globalization have often been described as economic threats. the truth, however, is more complex.

Click here to read more SHARE

Study: No new strides in immigration detention. FIAC's Attorney Tania Galloni featured.
October 28th, 2010 | 12:30 AM EDT

It's been a year since the Obama administration pledged to overhaul the immigration detention system. But a new study shows no real improvement in the way undocumented

immigrants are treated by the federal government. WLRN-Miami Herald reporter Marina Giovanelli takes a closer look.

Click here to listen now | Click here to read more SHARE

Mujeres tienen miedo de denunciar a sus parejas- CorrePeru.pe features Attorney Maria Jose Fletcher.
October 5th, 2010 | 12:30 PM EDT

"Queremos compatir experiencias sobre el trabajo realizado hasta ahora en beneficio de mujeres que sufren violencia física y psicológica, y desde ahí encaminarnos a conseguir leyes que contribuyan a la protección de las mujeres."

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U.S. Moving to ease deportation policy. TheMiamiHerald.com- FIAC cited.
August 27th, 2010 | 01:30 PM EDT

"South Florida immigration attorneys and activists said the move is the first solid evidence of more tolerance by ICE toward some foreign nationals facing removal to their homelands.""

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Ordenan suspender casos de deportación. ElNuevoHerald.com- FIAC cited.
August 26th, 2010 | 02:30 PM EDT

"El jefe de la Policía de Inmigración y Aduanas (ICE) ha ordenado anular las deportaciones contra extranjeros con solicitudes de residencia pendientes o aprobadas por parte de familiares que son ciudadanos o residentes legales."

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For undocumented students, fear of deportation still looms. TheMiamiHerald.com- FIAC and clients cited.
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"When Gaby Pacheco and three other South Florida youths walked from Miami to Washington earlier this year in an immigration protest, their message was simple: President Obama, stop deporting foreign undocumented students until Congress approves legislation making them eligible for green cards."

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News Release: NO to Arizona in Florida: Comprehensive Immigration Reform the Only Solution
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"Florida cannot afford a law that will undermine public safety and the state economy while providing no solution to our broken immigration system."

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Florida attorney general proposes immigration legislation.- FIAC cited CNN.com
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"Immigrant-rich Florida cannot afford a law that will create more confusion, legal challenges and expense for all Floridians," Cheryl Little, Executive Director FIAC.

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Secure Communities is anything but that.
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Under ICE's Secure Communities, 79 percent of immigrants deported were non-criminals or picked up for minor offenses—not the dangerous criminals allegedly targeted.

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The Miami Herald: A new break for immigrants?- FIAC cited.
August 2nd, 2010 | 11:30 AM EDT

"Cheryl Little, executive director of Florida Immigrant Advocacy Center, which has assisted many Haitians to obtain TPS, said options listed in the USCIS memo outlines the best options without immigration reform."
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Judge Blocks Provisions of Arizona Law
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"Instead of spending resources on divisive local laws, Arizona and other states would do better to work with the Obama administration and Congress to reform our broken immigration system," said Cheryl Little, Florida Immigrant Advocacy Center Executive Director.
FIAC's News Release SHARE

Associated Press: Reports on the plight of mentally ill detainees, including a FIAC client.
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"People with mental disabilities often cannot understand why they are being detained or what is happening in court. They may not speak coherently in their defense or recall important parts of their history, especially when not receiving proper treatment," said FIAC staff attorney Allison Kent.

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Orlando Sentinel: Florida joins states supporting Arizona immigration law. - FIAC cited
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"Susana Barciela, policy director with the Florida Immigrant Advocacy Center in Miami, said Florida municipalities already have cooperation agreements with U.S. Immigration and Customs Enforcement that allow them to detain immigrants."

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TPS: The Long and Winding Road. Article and Podcast from Under the Sun. - FIAC featured
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"The government predicted that up to 200,000 Haitians living in the United States could be eligible, but only 55,000 Haititans had applied as of July 12. Why? fees, fraud, and most importantly, fear, according to Cheryl Little of the Florida Immigrant Advocacy Center.

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Feds extend program for Haitians by 6 months. -FIAC featured on CNN.com
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"We and lots of other advocates had been asking for this," said Susanna Barciela, policy director at the Florida Immigrant Advocacy Center.

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Commentary: ICE targeting the wrong immigrants, deporting people for minor offenses. -FIAC featured on The Palm Beach Post
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"Immigration is a hot topic that provokes a lot of disagreement, even among friends. Nonetheless, a few principles are fundamental: We are a nation of law and of immigrants." Executive Director, Cheryl Little.

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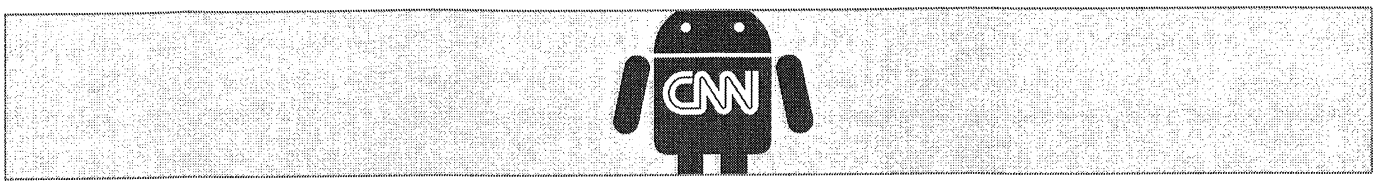
The U.S. Department of Justice (DOJ) has stepped up to the plate by filing a lawsuit today challenging Arizona's immigration law as unconstitutional.

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33 Haitian quake survivors freed by immigration officials in Florida

From **Jennifer Rizzo**, CNNc/div>
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STORY HIGHLIGHTS

- 32 Haitians who entered U.S. without visas after January 12 earthquake still held
- Haitians were uushered onto military planes in confusion after quake, lawyer says
- But immigration officials say some were trying to get to U.S. illegally

(CNN) -- Thirty-three Haitians were released Thursday from immigration detention facilities in Florida, more than two months after they arrived in the United States lacking proper immigration papers in the aftermath of their country's devastating earthquake.

The 33 were among 65 Haitians detained since entering the country without visas after the January 12 earthquake. Thirty-two continue to be held.

Many of those freed Thursday were released to family members already living in the United States, but they will remain under supervision of federal immigration officials.

Most of those detained came to the United States on military planes, according to Florida Immigrant Advocacy Center attorney Allison Kent.

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Kent and her colleagues at the center, along with a team of law students from across the country, started working on the release of the Haitians in February.

Some of the detainees told Kent that after a violent aftershock in Haiti, U.S. Marines waved them onto a military plane waiting at the Port-au-Prince airport. Kent said others went to the airport in search of food and aid and ended up in a line to board a plane out of the country

At no point did anyone on the ground ask to see the necessary visa documents for the Haitians to enter the United States legally, Kent said.

A Department of Homeland Security official who asked not to be identified did not discount the stories, saying that it was a very chaotic situation after the earthquake. But the official added that there were instances where individuals intentionally tried to gain access to the United States illegally.

While all the Haitians released Thursday still face deportation orders, the United States halted deportation to Haiti in response to the devastation of the earthquake. No timeline has been set for their removal, according to a DHS official.

The advocacy center called the detention of the Haitians unnecessary without a deportation date and claimed that many of them showed signs of depression, anxiety and post-traumatic stress disorder.

"Our clients' prolonged detention only exacerbated the terrible trauma they had already suffered before fleeing Haiti," said Cheryl Little, center executive director. "While we're obviously thrilled and grateful that this group will finally be able to attempt to recover from their horrific experiences, it's difficult to understand why they weren't released sooner."

After the earthquake, the United States extended "temporary protected status" clearance to Haitian nationals, but only to those present in

the United States before the earthquake.

"In order to mitigate the probability that Haitians may attempt to make a potentially deadly journey to the U.S., we clearly articulated that those who traveled to the U.S. illegally after January 12 may be arrested, detained, and placed in removal proceedings," said Immigration and Customs Enforcement spokesperson Brian P. Hale.

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April 1, 2010

Quake Survivors Freed From Immigration Jails

By NINA BERNSTEIN

More than three dozen Haitian earthquake survivors were released from Florida immigration jails on Thursday after more than two months in the custody of Immigration and Customs Enforcement.

Many had lost relatives in the Jan. 12 earthquake; some had been pulled from the rubble themselves. In the chaotic days and aftershocks that followed, many had been seeking security, food or treatment at the Port-au-Prince airport when they were waved onto military transports or other planes by United States Marines, only to be detained for lack of visas when they landed.

Lawyers at the Florida Immigrant Advocacy Center, who had urged their release for weeks, were jubilant as they waited with relatives outside the Broward County Transitional Center, a privately operated jail in Pompano Beach, for the last ones to walk out. Immigration officials said 40 Haitian survivors would be released on orders of supervision by nightfall. This came on the day that The New York Times reported that at least 30 earthquake survivors were being detained.

By February, nearly all had been ordered deported, but deportations have been indefinitely suspended since the earthquake. Advocates said their continued detention was traumatic and legally unjustified.

Allison Kent, a lawyer with the center, said two young women remained in jail — including one originally flown to the United States for hospital care — because they were still in deportation proceedings. A Creole-speaking therapist was to visit them Friday, she said.

Lawyers said the federal government was now reversing a practice adopted after the earthquake, to hold Haitians for at least 90 days after a deportation order before considering them for supervised release. Those released can be returned to Haiti when deportations resume.

Among the first to be freed was Jackson Ulysse, 20, whose request for release described how sounds in the jail made him fear another earthquake and panic that he would not be able to get out. He had been trapped when his family's apartment building collapsed in the quake, in which many relatives died.

He and his brother, Reagan Ulysse, 25, had been detained together until March 11, when Reagan was abruptly transferred to a distant immigration jail, leaving Jackson not knowing where he was.

But by Thursday evening a family friend had picked up Jackson and was driving him to pick up Reagan from the lobby of the Krome Detention Center in Miami.

"That's what I want — to see my brother, to see that they let him go, I want to hug him," Jackson said in French in a telephone interview. "I'm very happy, and I'm going to church to thank God."

The brothers' uncle, Virgile Ulysse, 69, a United States citizen who will take them in to his home in Norwalk, Conn., was also full of gratitude. "Thank the United States for Jackson and Reagan's release," he said in a telephone message.

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Immigration reform needed for U.S. economy and for Haiti

By **Cheryl Little**, Special to CNNc/div>
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STORY HIGHLIGHTS

- Cheryl Little says giving protected status to Haitian immigrants was wise
- She says such status was not granted in earlier disasters
- Little says further immigration changes would aid Haiti's effort to recover from quake
- A comprehensive immigration reform bill would be a major step forward, she says

Editor's note: Cheryl Little is the executive director of the Florida Immigrant Advocacy Center, a Miami-based nonprofit law firm that protects and promotes the rights of immigrants.

Miami, Florida (CNN) -- Marie, a Haitian mother, couldn't have been more grateful. "Thank you God for TPS," she recently told an attorney helping her fill out forms that will protect her from deportation. She was referring to temporary protected status, which will allow her to work legally, help Haiti and support her two young children. It's the sentiment that we hear most these days.

As longtime advocates, we at Florida Immigrant Advocacy Center were gratified when the Department of Homeland Security granted temporary protected status to unauthorized Haitian immigrants after the catastrophic earthquake in Haiti. Temporary protected status will allow perhaps 100,000 Haitians to legalize their status for the next 18 months.

They'll be able get work permits and driver's licenses and send more money to loved ones struggling in Haiti's ruins. Such people-to-people help is one of the best forms of foreign aid. Remittances encourage Haitians to stay and rebuild Haiti, rather than attempt treacherous sea voyages that more often than not end in tragedy.

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Today, Florida Immigrant Advocacy Center and other pro bono groups are working furiously to help Haitians apply for temporary protected status and warn them away from "raketè," scammers who will rip them off. It's a mammoth job in South Florida, home of the nation's largest Haitian-born population.

The six-page temporary protected status application includes complicated questions and must be translated for non-English speakers. Many Haitians also need help filling out work-permit and fee-waiver forms. Without a waiver, applicants ages 14 to 65 must pay $470 in fees and $50 for a younger child.

Frankly, temporary protected status is the least our government can do after decades of denying Haitians just immigration treatment. No previous administration had granted temporary protected status to Haitians despite numerous occasions when deportees would have been unsafe due to political conflict or natural disasters, conditions that typically trigger temporary protected status. Indeed, we had been actively pushing for temporary protected status since four killer storms demolished 15 percent of Haiti's gross domestic product in late 2008.

The history of discriminatory treatment goes back much further. Since Haitians started coming to U.S. shores nearly 50 years ago, they routinely have been denied the fundamental protections promised to refugees of virtually every other nationality.

Finally more attention is being paid to the need to help the Haitians. As a key neighbor, the United States needs to prepare for a long-term commitment in which U.S. Haitians play a key role.

Many of these Haitians wish to travel to support relatives in Haiti and contribute to reconstruction. But for Haitians with temporary protected status, those trips could lead to dire consequences. Though they may travel legally, some may face problems coming back home and, thus, should consult with an attorney before leaving.

Many U.S. citizen and resident Haitians also are trying desperately to bring relatives here from Haiti, but some face daunting delays because of archaic immigration processes. Given the substantial moral and material help that Haitians in our country offer Haiti, Homeland Security should find solutions to permit travel and expedite relative reunification.

We are hopeful, too, that Homeland Security will address concerns regarding Haitians who have arrived here since the earthquake with no or improper visas. One glaring example is the dozens of Haitians who were flown here on military planes after the earthquake, only to be detained. Many lost their parents, siblings and children; one of our clients lost his twin 9-year old daughters. Virtually all had U.S. citizen and lawful permanent resident relatives awaiting their release.

Their prolonged detention only exacerbated the terrible trauma they suffered before fleeing Haiti. During their detention, most showed signs of depression, anxiety and post-traumatic stress disorder. Yet Florida Immigrant Advocacy Center's attempts to get permission for a psychotherapist to meet with the Haitians were repeatedly rebuffed.

When everyone in the world was offering to help the Haitians, Immigration and Customs Enforcement kept our clients in detention for more than two months. They only released them after a front page New York Times story ran and the Haitians agreed to be deported whenever ICE wants.

Haitian orphans also raise tough questions. While many caring Americans would like to adopt, there is real danger that Haitian children may be trafficked or improperly separated from their parents. For this and other thorny problems, no easy solutions exist in the midst of Haiti's crisis.

This crisis in fact has exposed cracks in our deeply fractured immigration system. We know Haiti will not be ready for an influx of deportees when temporary protected status expires in July 2011 or for a long time to come. Frankly, this country wouldn't have large populations of immigrants who need temporary protected status if we adjusted immigration flows to meet the real demands of its families and our economy.

The best solution would be for Congress to pass a comprehensive immigration reform that includes a legalization plan and future immigrant flows attuned to the needs of our labor markets. The path to legal status should be offered, not only to Haitians, but also to millions of unauthorized immigrants without criminal records, who pay taxes, raise U.S. citizen kids and have contributed to their communities for years.

Reform that calibrates incoming immigration flows to labor needs and ensures workers rights would raise wages throughout the U.S. economy.

Such immigration reform could add $1.5 trillion to the nation's GDP over 10 years, according to a study released in February by the think tanks Center for American Progress and Immigration Policy Center. Clearly, enforcement-only immigration policy is not enough. Piecemeal fixes have not worked. The United States needs a 21st century immigration system that will benefit all Americans.

The opinions expressed in this commentary are solely those of Cheryl Little.

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Local Haitian leaders uneasy as immigration officials prepare to resume deporting illegals

By STEVEN BEARDSLEY

Monday, December 20, 2010

NAPLES — Immigration officials are preparing to resume deportations of Haitian nationals from the U.S., nearly one year after a devastating earthquake crippled the country and at a time when the threat of disease and political unrest remains high.

Some local immigration advocates and Haitian leaders say the move, scheduled for mid-January, comes at a dangerous time for the island nation.

"It's unconscionable to resume deportation to Haiti at this time, when conditions are worse than they were right in the aftermath of the earthquake," Susana Barciela, policy director at the Florida Immigrant Advocacy Center in Miami said.

"If they deport anybody right now, it's a crime," remarked Pastor Louis Telcy of La Piscine UMC in Golden Gate.

Immigrations and Customs Enforcement spokeswoman Barbara Gonzalez said on Monday that the deportation applies to "criminal aliens" and those who pose a threat to public safety.

The Department of Homeland Security, which oversees ICE, halted deportations in the immediate aftermath of the 7.0-magnitude earthquake on Jan. 12. Days later, the agency extended temporary protected status to Haitians who were in the U.S. illegally at the time of the disaster, a condition that allows them to remain in the U.S. for 18 months and apply for a work permit. Felons and applicants with at least two misdemeanors are not eligible for the status.

More than 61,000 Haitians have applied for protected status, with more than half of them from Florida, according to the government's Citizenship and Immigration Services. The window for protected status applications is due to close on Jan. 18, 2011.

Protected status does not cover another group of Haitians in the U.S. — those who arrived after the earthquake, many of them on tourist visas. Visa-holders are permitted to remain in the country legally for six months without an extension, during which time they cannot work.

Telcy, the pastor, said he knows earthquake survivors who are living with local family and have outstayed their visas. Some never sought an extension and are now in the country illegally.

Visa-holders can apply for an immigration status known as deferred action, which is being granted on a case-by-case basis through Citizenship and Immigration Services. Few in the community appear to be aware of the status, however.

The announcement of resumed deportations comes as Haiti struggles through disease, displacement and post-election violence.

An outbreak of cholera across the country has killed nearly 2,500 people and hospitalized more than 56,000, according to the World Health Organization. Sporadic riots following the recent national election have also claimed lives.

Meanwhile, reconstruction from the earthquake remains sluggish. Upwards of 300,000 people were killed in the disaster and more than a million were made homeless, according to official reports.

"It's a very unusual situation for Haitian people," Telcy said. "What I believe they should do, they should give them a humanitarian visa instead of sending them back home."

Immigration officials say 351 Hatians are in ICE custody nationwide.

Barciela, at the Advocacy Center, said that even the deportation of criminals would place an added burden on the country and needlessly subject more Haitians to sickness and death.

"We've seen a lot of deaths already in Haitian jails and prisons ..." she said. "They would be given untreated water. And it's not like they're going to have really good medical care, if any at all."

Barciela also fears the announcement will undermine her efforts to register more Haitians for protected status. Skepticism was already high in the community, she said.

Monday, Collier County Legal Services attorney Maureen Kelleher estimated handling upwards of 350 applications for protected status since the earthquake. Most applied in the weeks immediately following the disaster, she said.

Kelleher now fears that not enough parents are applying for their children, who may need a work permit if the protected status is extended in the future. Historically, the government has extended protected status for other nations afflicted by disaster.

"There is a window of opportunity that's going to be very important for these kids," Kelleher said.

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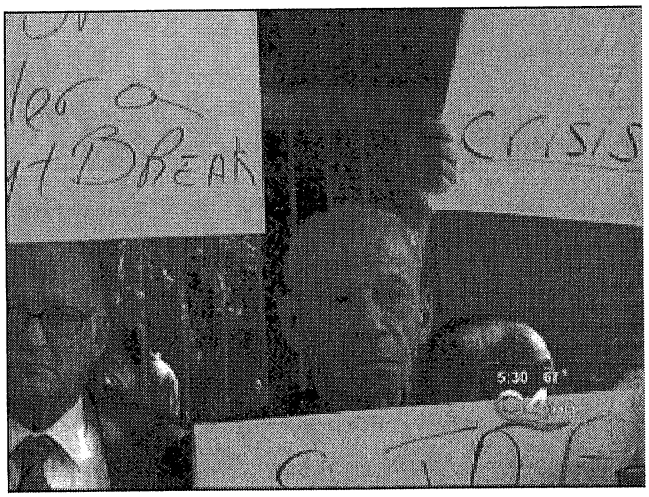
The Associated Press contributed to this report.

NEWS

Protests Surround Planned Deportations To Haiti

December 20, 2010 6:09 PM

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Protestors demonstrate against the Haitian deportations in Miami in December 2010. (Source: CBS4)

LITTLE HAITI (CBS4) – Immigrant advocates staged a protest in Miami's Little Haiti neighborhood Monday against the detention and pending deportations of hundreds of Haitians. The Haitians all have criminal records and are being detained in preparation for deportations scheduled to begin in mid-January, when regular flights to and from Haiti are expected to resume.

"We are sending a clear message to the Obama administration to stop this nonsense right now!" declared Marleine Bastien of Haitian Women of Miami. "To be spending taxpayer dollars to lock people up and send them back to Haiti at Christmas time is not only unfair, it's criminal."

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Cheryl Little, of the Florida Immigrant Advocacy Center (FIAC), said approximately 100 Haitians held at the Krome detention facility in West Miami-Dade were recently transferred to facilities in rural Louisiana, without access to their South Florida attorneys and family support. Little said those who have been detained have "already done their time" or "paid their debt" for what, in many cases, were petty crimes. More than 350 Haitians are currently being held pending deportation.

Steve Forester, of the Institute for Justice and Democracy in Haiti, said sending anyone to Haiti amid violence following a suspect election, a cholera plague, and January's devastating earthquake, would be "unconscionable."

"Yes, these people have some criminal infraction, but now is an insane time to be deporting anyone to Haiti with a cholera epidemic raging out of control," Forester said.

The FICA's Susana Barciela said deportation could constitute a cruel and unusual punishment.

"If they get deported, the conditions in Haiti are such that it could amount to a death sentence," Barciela said.

Little said that Haitians in the United States who could apply for lawful visas are fearful now.

"People are terrified," Little said. "We have people who are eligible for Temporary Protected Status who are afraid to apply...because they think they're going to be detained by immigration and deported."

Barbara Gonzalez, a spokesperson for Immigration and Customs Enforcement (ICE), emailed CBS4 News a statement defending the government's actions.

"ICE is resuming the removal of criminal aliens in coordination with the Government of Haiti and consistent with our domestic immigration enforcement priorities. ICE is legally required to repatriate criminal aliens to their country of

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origin or release them into U.S. communities if their repatriation is not reasonably foreseeable," the statement said.

The controversy comes at a time of growing sentiment against illegal immigrants.

Florida's governor-elect, Rick Scott, campaigned for a tough, Arizona-style immigration law.

In a post responding to an article by CBS4's news partner, the Miami Herald, one reader wrote, "If immigration advocates are so concerned about the deportation of Haitians after they are released from jail, then let them take them into their own homes. We sure as heck don't need them roaming the streets. How about a little common sense for a change?"

Little said ICE can remove foreign nationals for the most innocuous of infractions.

"Someone who allows their driver's license to expire for four months can be called a criminal," Little said.

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US resumes deportation of Haitians

By The World · January 13, 2011 · Post a comment

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This week, the people of Haiti paused to mark the one year anniversary of the quake that devastated much of their country.

But Haitians have little time to dwell on the past. The present is full of challenges still. About a million people remain homeless — most living in makeshift camps.

Only a small fraction of the quake rubble has been cleared. And there's also an ongoing cholera epidemic complicating things.

Haitians living in the US also face an additional challenge now. The Obama administration had suspended all deportations to Haiti in the quake's aftermath last year. That is now about to change.

The deportation process has already begun.

About one hundred Haitians have been transported from South Florida to Louisiana.
The move is considered one of the last steps before people are put on a plane back to Haiti, where they will likely be jailed.

Cheryl Little, executive director of the Florida Immigrant Advocacy Center, called the current situation "insanity."

"It's insanity," she said, "to deport Haitians back to a country still reeling from the quake and struggling to contain a cholera epidemic."

Caroline Bettinger-Lopez is director of the Human Rights Law Clinic at the University of Miami. She said conditions in Haiti are deplorable.

"When Haitians were deported routinely placed in holding cells in conditions highly unsanitary, rodent infested, no beds … they have to sleep standing with arm tied to the window to prevent yourself from falling down."

And Bettinger-Lopez said it's especially dangerous now that the cholera epidemic is raging through the country. She said over 48 individuals in Haitian detention centres have died.

The deportations aren't just troubling for the roughly 350 Haitians in US detention – or for their families.

The spectre of being sent back to Haiti is also terrifying the tens of thousands Haitians living or working in the US without legal documents.

Fritz, who did not want to use his last name, came to the US with his family after the quake. The family was at a press conference in Miami yesterday.

When it was their turn to speak, Fritz, his wife and their two young daughters started weeping. After sympathetic murmurs and a few and tissues, Fritz, began speaking softly in Creole.

Fritz described the horrible conditions his family faced in Haiti after the quake. He said they came to the US simply to survive.

Cheryl Little – the immigration advocate – said the Obama administration is putting Haitians in an awful position.

"We should not be having to look at families and telling them we don't know what's going to happen, we don't know if they are going to be sent back to Haiti, we don't know if they are going to be given work permits so they can support their families," Little said.

Groups opposing the deportation said Haiti is not equipped to deal with thousands of families who will need water, food and shelter.

–

Randy Mcroroty, executive director of Catholic Legal Services in Miami, said any time and money invested in sending people back to Haiti is a diversion from helping the country rebuild.

"If they are not going to be on the street, they are going to be housed somewhere at some expense to someone, money spent on Haitian prisons could be better spent on foods and water right now," he said.

McRorety said the best form of aide the Obama administration could give Haiti is to keep the detainees in the US

The looming deportations are making an already mistrustful Haitian community even more wary of government interaction.

Haitians have all but stopped applying for Temporary Protective Status, or TPS.
That's a special designation for Haitians who were in the US before the quake. It gives them temporary permission to live and work in the US legally.

The deadline to apply for TPS is January 18.

The Department of Homeland Security has not commented on TPS, the deportations or really much of anything relating to the Haitians' situation.

Spokeswoman Barbara Gonzalez would not speak on the record. She would not say when the deportations will start. Nor would she say what crimes the Haitian detainees have been convicted of.

Many, including Cheryl Little asked the same thing: "Why is our country doing this, and why now?"

That's another question the Department of Homeland Security wouldn't answer.

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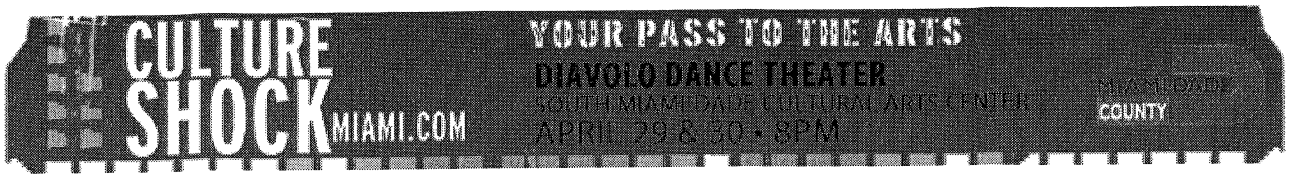
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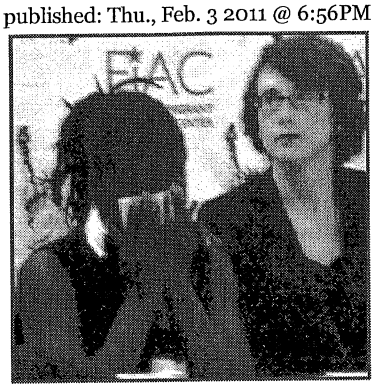


Updated: Confusion Over Haitian Deportations After Victim's Fiance Blames US Gov For Death

By Michael Miller

published: Thu., Feb. 3 2011 @ 6:56PM





Claudine Magloire mourns the recent death of her husband, Wildrick Guerrier

Between sobs, Haitian-American Claudine Magloire accused the U.S. government of responsibility in the death of her late fiancé, Wildrick Guerrier.

Guerrier was deported to Haiti on January 20 despite complaining of stomach pains. He died two days later.

"They are the cause of my husband's death," Magloire said during a press conference this afternoon. "If he hadn't been sent back (to Haiti), he would be standing here today."

UPDATE: A few hours later, the Florida Immigrant Advocacy Center released word that the federal government had suspended the deportations for the month of Februrary. However, a Department of Homeland Security spokesperson told *Riptide* Thursday that the deportations would continue as planned.

The mood of the conference was a mixture of grief and outrage.

Immigration activists are incensed that, just a year after a 7.0 magnitude earthquake that killed roughly 300,000 Haitians, the Obama administration has restarted deportations to the cholera-stricken island.

"The US government has blood on its hands," said Cheryl Little, executive director of the Florida Immigrant Advocacy Center (FIAC) that hosted the event. She said that of the 350 Haitians awaiting deportation in several jails in Louisiana, 27 -- including Guerrier -- had been deported to date. After Guerrier's death, however, the other 26 were released from Haiti's notoriously disease-ridden jails.

It's not yet clear if Guerrier died of cholera. He and 25 other detainees were already weakened from a week of hunger strikes that ended only a few days before their deportation.

Magloire said that Guerrier was worried about contracting cholera in a Haitian prison when they spoke over the phone before his deportation. He was released a day later after becoming seriously ill, only to die the next day.

Mere Meregne Longchamps, the wife of another Haitian detainee awaiting deportation in Louisiana, said she was "terrified" of what would happen to her husband if he was also sent to a Port-au-Prince jail.

The Department of Homeland Security has said it is only deporting Haitians convicted of violent crimes. Records show Guerrier was charged with several felonies in Broward County including cocaine possession, resisting arrest, and battery of a police officer. It's unclear which -- if any -- of these resulted in conviction.

But both Magloire and Little ridiculed the notion that Guerrier was a convict worthy of deportation.

"He was one of the guys (the other detainees) looked to for emotional inspiration," Little said.

"He was a loving, loving, loving man," Magloire added between tears.

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U.S. Immigration and Customs Enforcement

June 24, 2011

CHERYL LITTLE, ESQ.
FIAC
3000 BISCAYNE BLVD. SUITE 400
MIAMI, FL 33137

RE: **OPLA11-177, 2011FOIA4250**

Dear Ms. Little:

This is in response to your letter dated May 11, 2011, appealing the adverse determination concerning your Freedom of Information Act/Privacy Act (FOIA/PA) request. The initial request asked for records concerning the following 17 categories of information:

1. Any and all use of force reports, and any other records and information related to the use of force, including but not limited to audio and video recordings, involving any individual detained by or for U.S. Immigration and Customs Enforcement at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana) and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present.
2. Any and all incident reports, and any other records and information related to any incident involving any individual detained by or for U.S. Immigration and Customs Enforcement at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana) and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present.
3. Any and all information pertaining to any threat of suicide, special housing for suicide watch, logs for suicide watch, suicide attempts and suicides at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana) and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present.
4. Any and all sick call requests, grievances, petitions, complaints, requests to contact family members, requests to contact attorneys (and responses to any of the foregoing) made by any detainee at the Krome Service Processing Center (Florida), Baker County Detention Center (Florida), Wakulla County Jail (Florida), Monroe County Jail (Florida), South Louisiana Correctional Center, Basile (Louisiana), Lasalle Detention Center, Jena (Louisiana), Tensas Parish Detention Center, Waterproof (Louisiana) and Oakdale Federal Detention Center (Louisiana) from November 15, 2010 to the present.

5. Any and all documents, communications, emails, reports and other information reflecting or describing the new policy decision to resume deportations to Haiti ("new policy") either directly or through a third country, from January 2010 to the present;
6. Any and all communications, recommendations, memoranda, analyses, evaluations, directions, instructions, and other information prepared, relayed or communicated by or to ICE Field Offices regarding the new policy, both prior to and subsequent to its adoptions;
7. All documents and any other information relied on or cited as the basis(es) for the new policy decision to resume deportations to Haiti, either directly or through a third country;
8. All documents reflecting "the profile" or any other criteria, description, or classification of those ICE or any other entity has identified as amendable to deportation under the new policy;
9. All documents relied on by any agency or entity to determine that any individual "fits the profile" of those ICE or any other entity has identified as amenable to deportation under the new policy;
10. A complete list of the names, A Numbers, countries of birth, dates of birth, nationalities, states of residency, length of time in the United States, prior immigration status, and any convictions (include state of conviction, statute of conviction, date of conviction, judgment, sentence imposed and sentence served) of those ICE or any other entity has identified as amenable to deportation under the new policy.
11. Any and all information regarding the apprehension of individuals who were on orders of supervision or any other form of release from November 15, 2010 to the present for the purpose of deporting those individuals pursuant to the new policy, including but not limited to the date, location and manner of apprehension, and any and all documentation reflecting each individual's compliance with, or failure to comply with, any order of supervision or other form of conditional release;
12. Any and all documents, plans, agreements and communications regarding Justice Prisoner & Alien Transportation System (JPAT) flights or any other logistical arrangements to repatriate individuals to Haiti either directly or through a third country under the new policy;
13. Any and all documents or other records reflecting any agreements, understandings, arrangements, plans, programs and communications with the Government of Haiti regarding the new policy, including but not limited to all information on any financial arrangements related in any way to the new policy;
14. Any and all documents, communications and other records reflecting the Government of Haiti's consent to accept deportees under the new policy;
15. Any and all documents, communications and other records reflecting any agreements, understandings, arrangements, plans, programs or other communications with any other Unites States agency regarding the new policy;
16. Any and all documents, communications and other records reflecting any agreements, understandings, arrangements, plans, programs or other communications with any other United States agency regarding the new policy; and
17. Any and all documents, communications and other records reflecting any agreements, understandings, arrangements, plans, or programs with any other entity, including but not limited to the International Office for Migration (IOM), regarding the new policy.

U.S. Immigration and Customs Enforcement (ICE) denied your request in part by denying your request for a fee waiver. We have reviewed the records in question that gave rise to this initial determination. Our analysis follows.

This is the second administrative appeal that has been filed regarding this issue. During the first administrative appeal, we held that the requester had failed to state the requester's ability to disseminate the responsive records and the intended method of dissemination sufficient to satisfy the factors considered in determining whether or not to grant a fee wavier. The requester now seeks a reconsideration of the February 15, 2011 determination made on appeal.

In the most recent "request for reconsideration" dated May 11, 2011, the requester references the March 16, 2011 letter "stating for the first time that FIAC had not specified (their) ability to disseminate the requested information to the public and the intended methods of dissemination." Contrary to the requester's implication, it is the requester, rather than the agency, that bears the burden of establishing that the factors necessary for a fee waiver have been met.[1] Any delay by the ICE FOIA office in this instance in making a fee determination is directly attributable to the requester, who did not seek a fee waiver until its letter dated February 2, 2011, well after a search for responsive records had already been conducted and a fee estimate had been provided to the requester. As indicated in the March 16, 2011 adjudication of the requester's first appeal, even while nonprofit organizations and public interest groups often are capable of disseminating information, they do not presumptively qualify for fee waivers; rather they must, like any requester, meet the statutory requirements for a full waiver of all fees.[2]

In the case at hand, the requester not only failed to even request a fee waiver until after the search was conducted and a fee was assessed, but also failed to submit information sufficient to justify a fee waiver on appeal. As such, pursuant to 6 C.F.R. § 5.9(a)(2) ICE may not now be required to consider for a third time whether or not the requester is entitled to a fee waiver.

This decision is the final action of the Department of Homeland Security concerning your FOIA/PA request. Inasmuch as you consider this to be a denial of your appeal, you may obtain judicial review of this decision pursuant to the provisions of 5 U.S.C. § 552(a)(4)(B) in the United States District Court in the district in which you reside, or in which the agency records are situated, or in the District of Columbia.

The Office of Government Information Services (OGIS) also mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. If you wish to contact OGIS, you may email them at ogis@nara.gov or call 1-877-684-6448.

[1] Dale v. IRS, 238 F. Supp. 2d 99, 107 (D.D.C. 2002).
[2] See, Forest Guardians, 416 F.3d 1173 at 1178 (10th Cir. 2005).

Should you have any questions regarding this appeal closure, please contact ICE at ice-foia@dhs.gov. In the subject line of the email please include the word "appeal", your appeal number, which is **OPLA11-177,** and the FOIA case number, which is **2011FOIA4250.**

Sincerely,

for

Susan Mathias
Chief
Government Information Law Division
ICE Office of the Principal Legal Advisor
Department of Homeland Security